Introduction to Translation of Malik's Muwatta

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Malik's Muwatta ("the well-trodden path") is a collection of two items:

- the sayings and deeds of Prophet Muhammad (pbuh) (also known as the **sunnah**). The *reports* of the Prophet's sayings and deeds are called **ahadith**.
- the legal opinions and decisions of the Prophet's Companions, their successors, and some later authorities.

Malik (full name Malik bin Anas bin Malik bin Abu Amir Al-Asbahi) was born in 93 A.H. and died in 179 A.H. He lived most of his life in Madinah, the city in which the Prophet (pbuh) settled in. He was a preeminent scholar of Islam, and is the originator of the Maliki judicial school of thought. He is reputed to have had over one thousand students. During Malik's lifetime, he steadily revised his Muwatta, so it reflects over forty years of his learning and knowledge. It contains a few thousand hadith.

It is important to realize, however, that Malik's collection is not complete: there are other scholars who worked as Malik did and collected other reports.

Translation of Malik's Muwatta, Book 18:

Fasting

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Section: Sighting the New Moon for Beginning and Ending the Fast of Ramadan

Book 18, Number 18.1.1:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, once mentioned Ramadan and said, "Do not begin the fast until you see the new moon, and do not break the fast (at the end of Ramadan) until you see it. If the new moon is obscured from you, then work out (when it should be)."

Book 18, Number 18.1.2:

Yahya related to me from Malik from Abdullah ibn Dinar from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "A month has twenty-nine days in it. Do not start the fast or break it until you see the new moon. If the new moon is obscured from you, then work out (when it should be)."

Book 18, Number 18.1.3:

Yahya related to me from Malik from Thawr ibn Zayd ad-Dili from Abdullah ibn Abbas that the Messenger of Allah, may Allah bless him and grant him peace, once mentioned Ramadan and said, "Do not start the fast or break it until you see the new moon. If the new moon is obscured from you, then complete a full thirty days."

Book 18, Number 18.1.4:

Yahya related to me from Malik that he had heard that once in the time of Uthman ibn Affan the new moon had been seen in the afternoon and Uthman did not break his fast until evening had come and the sun had set.

Yahya said that he had heard Malik say that some one who sees the new moon of Ramadan when he is on his own should start the fast and not break it if he knows that that day is part of Ramadan. He added, "Some one who sees the new moon of Shawwal when he is on his own does not break the fast, because people suspect the reliability of someone among them who breaks the fast. Such people should say, when they sight the new moon, 'We have seen the new moon.' Whoever sees the new moon of Shawwal during the day should not break his fast but should continue fasting for the rest of that day. This is because it is really the new moon of the night that is coming ."

Yahya said that he heard Malik say, "If people are fasting on the day of Fitr thinking that it is still Ramadan and then definite evidence comes to them that the new moon of Ramadan had been seen one day before they began to fast and that they are now into the thirty-first day, then they should break the fast on that day at

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The Times of Prayer

Section: The Times of Prayer

Book 1, Number 1.1.1:

He said, "Yahya ibn Yahya al-Laythi related to me from Malik ibn Anas from Ibn Shihab that one day Umar ibn Abdal-Aziz delayed the prayer. Urwa ibn az-Zubayr came and told him that al-Mughira ibn Shuba had delayed the prayer one day while he was in Kufa and Abu Masud al-Ansari had come to him and said, 'What's this, Mughira? Don't you know that the angel Jibril came down and prayed and the Messenger of Allah, may Allah bless him and grant him peace, prayed.' Then he prayed again, and the Messenger of Allah, may Allah bless him and grant him peace, prayed. Then he prayed again, and the Messenger of Allah, may Allah bless him and grant him peace, prayed. Then he prayed again, and the Messenger of Allah, may Allah bless him and grant him peace, prayed. Then he prayed again, and the Messenger of Allah, may Allah bless him and grant him peace, prayed. Then Jibril said, 'This is what you have been ordered to do.' Umar ibn Abd al-Aziz said, 'Be sure of what you relate, Urwa. Was it definitely Jibril who established the time of the prayer for the Messenger of Allah?' " Urwa said, "That's how it was related to Bashir ibn Abi Masud al-Ansari by his father."

Book 1, Number 1.1.2:

Urwa said that A'isha, the wife of the Prophet, may Allah bless him and grant him peace used to pray asr while the sunlight was pouring into her room, before the sun itself had become visible (i.e. because it was still high in the sky).

Book 1, Number 1.1.3:

Yahya related to me from Malik from Zayd ibn Aslam that Ata ibn Yasar said, "A man came to the Messenger of Allah, may Allah bless him and grant him peace, and asked him about the time of the subh prayer. The Messenger of Allah, may Allah bless him and grant him peace, did not answer him, but in the morning he prayed subh at first light. The following morning he prayed subh when it was much lighter, and then said, 'Where is the man who was asking about the time of the prayer?' The man replied, 'Here I am, Messenger of Allah.' He said,'The time is between these two.' "

Book 1, Number 1.1.4:

Yahya related to me from Malik from Yahya ibn Said from Amra bint Abd ar-Rahman that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "The Messenger of Allah, may Allah bless him and grant him peace, used to pray subh and the women would leave wrapped in their garments and they could not yet be recognised in the darkness."

Book 1, Number 1.1.5:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar and from Busr ibn Said and from al-Araj-all of whom related it from Abu Hurayra - that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever manages to do a raka of subh before the sun has risen has done subh in time, and whoever manages to do a raka of asr before the sun has set has done asr in time."

Book 1, Number 1.1.6:

Yahya related to me from Malik from Nafi from the mawla of Abdullah ibn Umar that Umar ibn al-Khattab wrote to his governors, saying, "The most important of your affairs in my view is the prayer. Whoever protects it and observes it carefully is protecting his deen, while whoever is negligent about it will be even more negligent about other things." Then he added, "Pray dhuhr any time from when the afternoon shade is the length of your forearm until the length of your shadow matches your height. Pray asr when the sun is still pure white, so that a rider can travel two or three farsakhs before the sun sets. Pray maghrib when the sun has set. Pray isha any time from when the redness in the western sky has disappeared until a third of the night has passed - and a person who sleeps, may he have no rest, a person who sleeps, may he have no rest. And pray subh when all the stars are visible and like a haze in the sky."

Book 1, Number 1.1.7:

Yahya related to me from Malik, from his uncle Abu Suhayl from his father that Umar ibn al-Khattab wrote to Abu Musa saying that he should pray dhuhr when the sun had started to decline, asr when the sun was still pure white before any yellowness had entered it maghrib when the sun had set, and to delay isha as long as he did not sleep, and to pray subh when the stars were all visible and like a haze in the sky and to read in it two long suras from the mufassal.

Book 1, Number 1.1.8:

Yahya related to me from Malik from Hisham ibn Urwa from his father that Umar ibn al-Khattab wrote to Abu Musa al-Ashari that he should pray asr when the sun was still pure white so that a man could ride threefarsakhs (before maghrib) and that he should pray isha during the first third of the night, or, if he delayed it, then up until the middle of the night, and he warned him not to be forgetful.

Book 1, Number 1.1.9:

Yahya related to me from Malik from Yazid ibn Ziyad that Abdullah ibn Rafi, the mawla of Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, asked Abu Hurayra about the time of the prayer. Abu Hurayra said, "Let me tell you. Pray dhuhr when the length of your shadow matches your height, asr when your shadow is twice your height, maghrib when the sun has set, isha in the first third of the night, and subh in the very first light of dawn," i.e. when the dawn has definitely come.

Book 1, Number 1.1.10:

Yahya related to me from Malik from Ishaq ibn Abdullah ibn Abi Talha that Anas

ibn Malik said, "We would pray asr and anyone who then went to the Bani Amr ibn Awf would find them praying asr."

Book 1, Number 1.1.11:

Yahya related to me from Malik from Ibn Shihab that Anas ibn Malik said, "We would pray asr and anyone who then went to Quba would arrive there while the sun was still high."

Book 1, Number 1.1.12:

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman that al Qasim ibn Muhammad said, "None of the companions that I met prayed dhuhr until well after noon,"(i.e.until when the sun had lost its fierceness).

Section: The Time of the Jumua Prayer

Book 1, Number 1.2.13:

Yahya related to me from Malik from his uncle Abu Suhayl ibn Malik that his father said, "I used to see a carpet belonging to Aqil ibn Abi Talib spread out on the day of jumua up to the west wall of the mosque. When the shadow of the wall covered the whole carpet, Umar ibn al-Khattab would come out and pray the jumua prayer."

Malik, Abu Suhayl's father, added, "We would then return after the jumua prayer and take our midday sleep."

Book 1, Number 1.2.14:

Yahya related to me from Malik from Amr ibn Yahya ibn Yahya al-Mazini from Ibn Abi Salit that Uthman ibn Affan prayed jumua in Madina and asr in Malal (a place seventeen miles from Madina).

Malik commented, "That was by praying jumua just past midday and then travelling fast."

Section: Catching a Raka of the Prayer

Book 1, Number 1.3.15:

Yahya related to me from Malik from Ibn Shihab from Abu Salama ibn Abdar-Rahman from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said "Whoever catches a raka of the prayer has caught the prayer."

Book 1, Number 1.3.16:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar ibn al-Khattab used to say, "If the ruku has passed you by, so has the sajda."

Book 1, Number 1.3.17:

Yahya related to me from Malik that he had heard that Abdullah ibn Umar and Zayd ibn Thabit used to say, "Whoever catches the ruku has caught the sajda."

Book 1, Number 1.3.18:

Yahya related to me from Malik that he had heard that Abu Hurayra used to say, "Whoever catches the ruku has caught the sajda and whoever misses the recitation of the umm al-Qur'an has missed much good."

Section: Duluk ash-Shams and Ghasaq al-Layl

Book 1, Number 1.4.19:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "Duluk ash-shams begins from when the sun passes the meridian."

Book 1, Number 1.4.20:

Yahya related to me from Malik that Da'ud ibn al-Husayn said that someone had told him Abdullah ibn Abbas used to say, "Duluk ash-shams begins from when the sun passes the meridian. Ghasaq al-layl is the gathering of the night and its darkness."

Section: The Times of Prayer in General

Book 1, Number 1.5.21:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "If someone misses the asr prayer it is as if he has suffered a great misfortune in his family and wealth ."

Book 1, Number 1.5.22:

Yahya related to me from Malik from Yahya ibn Said that once Umar ibn al-Khattab left after doing the asr prayer and met a man who had not been there. Umar asked him what had kept him from the prayer and eventhough the man gave a good reason, Umar said, "You have given yourself short measure."

Yahya added that Malik commented, "It is said that everything has a short measure and a full measure."

Book 1, Number 1.5.23:

Yahya related to me from Malik thatYahya ibn Said used to say, "Even if someone manages to pray before the time of the prayer has passed, the time that has passed him by is more important, or better, than his family and wealth."

Yahya said that Malik said, "If the time for a prayer comes and a traveller delays a prayer through neglect or forgetfulness until he reaches his family, he should do that prayer in full if he arrives within the time. But if he arrives when the time has past, he should do the travelling prayer. That way he only repays what he owes."

Malik said, "This is what I have found the people and men of knowledge doing in our community." Malik explained that shafaq was the redness in the sky after the sun had set, and said, "When the redness has gone then the isha prayer is due and you have left the time of maghrib."

Book 1, Number 1.5.24:

Yahya related to me from Malik from Nafi that one time Abdullah ibn Umar fainted and lost his senses and he did not make up the prayer.

Malik commented, "We consider that that was because, and Allah knows best, the time had passed. Someone who recovers within the time has to pray."

Section: Sleeping Through the Prayer

Book 1, Number 1.6.25:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab that the Messenger of Allah, may Allah bless him and grant him peace, travelled by night on the way back from Khaybar.Towards the end of the night he stopped for a rest and told Bilal to stay awake to keep watch for the subh prayer. The Messenger of Allah, may Allah bless him and grant him peace, and his companions slept. Bilal stayed on guard as long as was decreed for him and then he leant against his riding camel facing the direction of the dawn and sleep overcame him and neither he nor the Messenger of Allah nor any of the party woke up until the sun's rays had struck them. The Messenger of Allah, may Allah bless him and grant him peace, was alarmed. Bilal excused himself, saying, "Messenger of Allah! The One who took your self was the One who took myself. "The Messenger of Allah, may Allah bless him and grant him peace, ordered the party to move on and so they roused thei r mounts and rode on a short distance. The Messenger of Allah, may Allah bless him and grant him peace, ordered Bilal to give the iqama and then led them in the subh prayer. When he had finished he said, "Anyone who forgets a prayer should pray it when he remembers. Allah theBlessed and Exalted says in His book, 'Establish the prayer to remember Me.'"

Book 1, Number 1.6.26:

Yahya related to me from Malik that Zayd ibn Aslam said, "The Messenger of Allah, may Allah bless him and grant him peace, stopped for a rest one night on the way to Makka and appointed Bilal to wake them up for the prayer. Bilal slept and everyone else slept and none of them woke up until the sun had risen. When they did wake up they were all alarmed. The Messenger of Allah, may Allah bless him and grant him peace, ordered them to ride out of the valley, saying that there was a shaytan in it. So they rode out of the valley and the Messenger of Allah, may Allah bless him and grant him peace, ordered them to dismount and do wudu and he told Bilal either to call the prayer or to give the iqama. The Messenger of Allah, may Allah bless him and grant him peace, then led them in the prayer. Noticing their uneasiness, he went to them and said, 'O people! Allah seized our spirits (arwah) and if He had wished He would have returned them to us at a time other than this. So if you sleep through the time for a prayer or forget it and then are anxious about it, pray it as if you were praying it in its time.' The Messenger of Allah, may Allah bless him and grant him peace, turned to Abu Bakr and said, 'Shaytan came to Bilal when he was standing in prayer and made him lie down and lulled him to sleep like a small boy.' The Messenger of Allah, may Allah bless him and grant him peace, then called Bilal and told him the same as he had told Abu Bakr. Abu Bakr declared, 'I bear witness that you are the Messenger of Allah.' "

Section: Prohibition against Doing the Prayer at the Hottest Hour of the Day

Book 1, Number 1.7.27:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Scorching heat is a part of the blast of Jahannam. So, when the heat is fierce, delay the prayer until it gets cooler."

He added in explanation, "The Fire complained to its Lord and said, 'My Lord, part of me has eaten another part,' so He allowed it two breaths in every year, a breath in winter and a breath in summer."

Book 1, Number 1.7.28:

Malik related to us from Abdullah ibn Yazid the mawla of al-Aswad ibn Sufyan, from Abu Salama ibn Abd ar-Rahman from Muhammad ibn Abd ar-Rahman ibn Thawban from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When the heat is fierce delay the prayer until it gets cooler, for scorching heat is a part of the blast of Jahannam."

He added, "The Fire complained to its Lord, so He allowed it two breaths in each year, a breath in winter and a breath in summer."

Book 1, Number 1.7.29:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When the heat is fierce, wait until it gets cooler before you do the prayer, for scorching heat is from the blast of Jahannam."

Section: The Prohibition against Entering the Mosque Smelling of Garlic and the Prohibition against covering the Mouth in Prayer

Book 1, Number 1.8.30:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab that the Messenger of Allah, may Allah bless him and grant him peace, said, "Anyone who eats this plant should not come near our mosques. The smell of the garlic will offend us."

Book 1, Number 1.8.31:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Mujabbar that he used to see Salim ibn Abdullah pull the cloth away fiercely from the mouth of any man he saw covering his mouth while praying.

Translation of Malik's Muwatta, Book 2:

Purity

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Section: How to do Wudu

Book 2, Number 2.1.1:

Yahya related to me from Malik from Amr ibn Yahya al-Mazini that his father once asked Abdullah ibn Zayd ibn Asim, who was the grandfather of Amr ibn Yahya al-Mazini and one of the companions of the Messenger of Allah, may Allah bless him and grant him peace, if he could show him how the Messenger of Allah, may Allah bless him and grant him peace, did wudu. Abdullah ibn Zayd ibn Asim agreed to do so and asked for water to do wudu. He poured some out on to his hand and washed each hand twice and then rinsed his mouth and snuffed water up his nose and blew it out three times.Then he washed hisface three times and both of his arms up to the elbows twice. He then wiped his head with both hands, taking his hands from hisforehead to the nape of his neck and then bringing them back to where he had begun. Then he washed his feet.

Book 2, Number 2.1.2:

Yahya related to me from Malik from Abu'zZinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you do wudu, snuff water into your nose and blow it out, and if you use stones to clean your private parts use an odd number."

Book 2, Number 2.1.3:

Yahya related to me from Ibn Shihab from Abu Idris al-Khawlani from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "The person doing wudu should snuff water up his nose and blow it out again."

Book 2, Number 2.1.4:

Yahya said that he heard Malik say that there was no harm in washing the mouth and cleaning the nose with only one handful of water.

Book 2, Number 2.1.5:

Yahya related to me from Malik that he had heard that Abd ar-Rahman ibn Abi Bakr was visiting A'isha, the wife of the Prophet, may AIlah bless him and grant him peace, on the day that Sad ibn Abi Waqqas died, and he asked for some water to do wudu. A'isha said to him, "Abd ar-Rahman! Perform your wudu fully, for I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'Woe to the heels in the fire.' "

Book 2, Number 2.1.6:

Yahya related to me from Malik from Yahya ibn Muhammad ibn Talhafrom Uthman ibn Abd ar-Rahman that his father related to him that he had heard that Umar ibn al-Khattab used to wash what was beneath his waist wrapper with water.

Book 2, Number 2.1.7:

Yahya said that Malik was asked what a man should do if, when he did wudu, he forgot and washed his face before he had rinsed his mouth, or washed his forearms before he had washed his face. He said, "If someone washes his face before rinsing his mouth, he should rinse his mouth and not wash his face again. If someone washes his forearms before his face, however, he should wash his forearms again so that he has washed them after his face. This is if he is still near the place (of wudu)."

Book 2, Number 2.1.8:

Yahya said that Malik was asked about what a man should do if he had forgotten to rinse his mouth and nose until he had prayed, and he said, "He does not have to repeat the prayer, but should rinse his mouth and nose if he wishes to do any more prayers after that."

Section: The Wudu of a Man who has been Asleep when he Gets Up to Pray

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Book 2, Number 2.2.9:

Yahya related to me from Malik from Abu'zZinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you wake up from sleep to pray, wash your hands before you put them in the wudu water, for you do not know where your hands have spent the night."

Book 2, Number 2.2.10:

Yahya related to me from Malik from Zayd ibn Aslam that Umar ibn al-Khattab said, "If you fall asleep Iying down you must do wudu (before you pray) . "

Yahya related to me from Malik from Zayd ibn Aslam that the ayat "You who believe! When you rise for prayer wash your faces, and your arms to the elbows, and wipe over your heads and your feet up to the ankles," refers to rising from bed, meaning sleep.

Yahya said that Malik said, "The situation with us is that one does not have to do wudu for a nose-bleed, or for blood, or for pus issuing from the body. One only has to do wudu for impurities which issue from the genitals or the anus, or for sleep."

Yahya related to me from Malik from Nafithat Ibn Umar used to sleep sitting and then would pray without doing wudu.

Section: What is Pure for Wudu

Book 2, Number 2.3.12:

Yahya related to me from Malik from Safwan ibn Sulaym from Said ibn Salama of the Bani Azraq from al-Mughira ibn Abi Burda of the tribe of Bani Abd ad-Dar that he had heard Abu Hurayra speak about a man who came to the Messenger of Allah,

may Allah bless him and grant him peace, and said, "Messenger of Allah! We travel by sea and we do not carry much fresh water with us so if we do wudu with it we go thirsty. Can we do wudu with seawater?" The Messenger of Allah, may Allah bless him and grant him peace, replied, "lts water is pure, and its dead creatures are halal."

Book 2, Number 2.3.13:

Yahya related to me from Malik from Ishaq ibn Abdullah ibn Abi Talha from Humayda bint Abi Ubayda ibn Farwa that her maternal aunt Kabsha bint Kab ibn Malik, who was the wife of the son of Abu Qatada al-Ansari, told her that once Abu Qatada was visiting her and she poured out some water for him to do wudu with. Just then a cat came to drink from it, so he tilted the vessel towards it to let it drink. Kabsha continued, "He saw me looking at him and said, 'Are you surprised, daughter of my brother?' I said, 'Yes.' He replied that the Messenger of Allah, may Allah bless him and grant him peace, said, cats are not impure. They intermingle with you .' "

Yahya said that Malik said, "There is no harm in that unless one sees impurities on the cat's mouth."

Book 2, Number 2.3.14:

Yahya related to me from Malik from Yahya ibn Said from Muhammad ibn Ibrahim ibn alHarith at-Taymi from Yahya ibn Abd ar-Rahman ibn Hatib that Umar ibn al-Khattab set out on one occasion with a party of riders, one of whom was Amr ibn al-As. They came to a watering place and Amr ibn al-As asked the man who owned it whether wild beasts drank from it. Umar ibn al-Khattab told the owner of the watering place not to answer, since the people drank after the wild beasts and the wild beasts drank after them.

Book 2, Number 2.3.15:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say that men and their wives used to do wudu together in the time of the Messenger of Allah.

Section: Things which do not break Wudu

Book 2, Number 2.4.16:

Yahya related to me from Malik from Muhammad ibn Umara from Muhammad ibn Ibrahim that the mother of the son of Ibrahim ibn Abd ar-Rahman ibn Awf questioned Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, and said, "I am a woman who wears a long skirt and (sometimes) I walk in dirty places." Umm Salama replied, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'What follows (i.e. clean places) purifies it.' "

Book 2, Number 2.4.17:

Yahya related to me from Malik that he saw Rabia ibn Abd ar-Rahman vomit several times when he was in the mosque and he did not leave, nor did he do wudu before he prayed.

Yahya said that Malik was asked whether a man who vomited food had to do wudu and he said, "He does not have to do wudu, but he should rinse the inside of his mouth and wash his mouth out."

Book 2, Number 2.4.18:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar prepared the body of one of Said ibn Zayd's sons for burial and carried it and then entered the mosque and prayed without doing wudu.

Yahya said that Malik was asked whether it was necessary to do wudu because of regurgitating undigested food and he said, "No, wudu is not necessary, but the mouth should be rinsed."

Section: Discontinuing Doing Wudu on Account of Eating Cooked Food

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Book 2, Number 2.5.19:

Yahya related to me from Malik from Zayd Aslam from Ata ibn Yasar from Abdullah Abbas that the Messenger of Allah, may Allah bless him and grant him peace, ate a shoulder of lamb and then prayed without doing wudu.

Book 2, Number 2.5.20:

Yahya related to me from Malik from Yahya ibn Said from Bushayr ibn Yasar, the mawla of the Bani Haritha, that Suwayd ibn anNuman told him that he went with the Messenger of Allah, may Allah bless him and grant him peace, on the expedition to Khaybar. When they reached as Suhba, which was near Khaybar, the Messenger of Allah, may Allah bless him and grant him peace, stopped and prayed asr. He asked for provisions but only parched barley was brought, so he asked for it to be moistened. The Messenger of Allah, may Allah bless him and grant him peace, ate and the people ate with him. Then he got up to do maghrib and rinsed his mouth out and they rinsed out theirs. Then he prayed without doing wudu.

Book 2, Number 2.5.21:

Yahya related to me from Malik that both Muhammad ibn al-Munkadir and Safwan ibn Sulaym transmitted to him from Muhammad ibn Ibrahim ibn al-Harith at-Taymi from Rabia ibn Abdullah ibn al-Hudayr that he had eaten an evening meal with Umar ibn al-Khattab who then prayed without doing wudu.

Book 2, Number 2.5.22:

Yahya related to me from Malik from Damra ibn Said al-Mazini from Aban ibn Uthman that Uthman ibn Affan ate bread and meat, rinsed his mouth out, washed his hands and wiped his face with them, and then prayed without doing wudu.

Book 2, Number 2.5.23:

Yahya related to me from Malik that he had heard that Ali ibn Abi Talib and Abdullah ibn Abbas did not do wudu after eating cooked food.

Book 2, Number 2.5.24:

Yahya related to me from Malik from Yahya ibn Said that he asked Abdullah ibn Amir ibn Rabia whether a man who did wudu for prayer and then ate cooked food had to do wudu again. He said, "I saw my father do that without doing wudu ."

Book 2, Number 2.5.25:

Yahya related to me from Malik from Abu Nuaym Wahb ibn Kaysan that he heard Jabir ibn Abdullah al-Ansari saying, "I saw Abu Bakr as-Siddiq eat meat and then pray without doing wudu."

Book 2, Number 2.5.26:

Yahya related to me from Malik from Muhammad ibn al-Munkadir that the Messenger of Allah, may Allah bless him and grant him peace, was invited to eat, and some bread and meat was brought to him. He ate some of it, and then did wudu and prayed. Then more of the same food was brought and he ate some more and then prayed without doing wudu.

Book 2, Number 2.5.27:

It was related to me from Malik from Musa ibn Uqba from Abd ar-Rahman ibn Yazid al-Ansari that when Anas ibn Malik came back from Iraq, Abu Talha and Ubayy ibn Kab visited him. He brought them some cooked food and they ate, and then Anas got up and did wudu. Abu Talha and Ubayy ibn Kab asked, "What's this, Anas? Is it an Iraqi custom?" and Anas said, "I wish I had not done it." (i.e. wudu). Abu Talha and Ubayy ibn Kab both got up and prayed without doing wudu.

Section: On Wudu in General

Book 2, Number 2.6.28:

Yahya related to me from Malik from Hisham ibn Urwa from his father that the Messenger of Allah, may Allah bless him and grant him peace, was asked about cleaning after excretion. He replied, "Are any of you unable to find three stones?"

Book 2, Number 2.6.29:

Yahya related to me from Malik from al-Ala ibn Abd ar-Rahman from his father from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, went to the burial grounds and said, "Peace be upon you, home of a people who believe! We shall be among you, Allah willing. I wish that I had seen our brothers!" The people with him said, "Messenger of Allah! Are we not your brothers?" "No," he said, "You are my companions. Our brothers are those who have not yet come. And I will precede them to the Hawd. (The Hawd: the watering place of the Prophet, may Allah bless him and grant him peace, from which he will give to the people of his community on the day of rising.)" They asked him, "Messenger of Allah! How will you recognise those of your community who come after you?"

He said, "Doesn't a man who has horses with white legs and white blazes on their foreheads among totally black horses recognise which ones are his own?" They said, "Of course, Messenger of Allah." He went on, "Even so will they come on the day of rising with white marks on their foreheads, hands and feet from wudu, and I

will precede them to the Hawd. Some men will be driven away from the Hawd as if they were straying camels and I shall call out to them, 'Will you not come? Will you not come? Will you not come?' and someone will say, 'They changed things after you,' so I shall say, 'Then away with them, away with them, away with them!' "

Book 2, Number 2.6.30:

Yahya related to me from Malik from Hisham ibn Urwa from his father from Humran, the mawla of Uthman ibn Affan, that Uthman ibn Affan was once sitting on the Maqaid (the benches surrounding the Madina Mosque, or else a stone near Uthman ibn Affan's house where he sat to discuss with people), when the muadhdhin came and told him that it was time for the asr prayer. He called for water and did wudu. Then he said, "By Allah, I shall tell you something which I would not tell you if it were not in the Book of Allah. I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'If a man does wudu, and makes sure he does it correctly, and then does the prayer, he will be forgiven everything that he does between then and the time when he prays the next prayer.' "

Yahya said that Malik said, "I believe he meant this ayat - 'Establish prayer at the two ends of the day and in some watches of the night. Good actions take away wrong actions. That is a reminder for those who remember.' " (Sura 11 ayat 114).

Book 2, Number 2.6.31:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar from Abdullah as-Sanabihi that the Messenger of Allah, may Allah bless him and grant him peace, said, "A trusting slave does wudu and as he rinses his mouth the wrong actions leave it. As he cleans his nose the wrong actions leave it. As he washes his face, the wrong actions leave it, even from underneath his eyelashes. As he washes his hands the wrong actions leave them, even from underneath his fingernails. As he wipes his head the wrong actions leave it, even from his ears. And as he washes his feet the wrong actions leave them, even from underneath the toenails of both his feet." He added, "Then his walking to the mosque and his prayer are an extra reward for him."

Book 2, Number 2.6.32:

Yahya related to me from Malik from Suhayl ibn Abi Salih from his father from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "A muslim slave (or a trusting slave) does wudu and as he washes his face every wrong action he has seen with his eyes leaves with the water (or the last drop of water). As he washes his hands every wrong action he has done with his hands leaves with the water (orthe last drop of water). And as he washes his feet every wrong action his feet have walked to leaves with the water (or the last drop of water) so that he comes away purified of wrong actions."

Book 2, Number 2.6.33:

Yahya related to me from Malik from Ishaq ibn Abdullah ibn Abi Talha that Anas ibn Malik said, "I saw the Messenger of Allah, may Allah bless him and grant him peace, on one occasion when the asr prayer was at hand . Everyone was looking for water for wudu but no-one could find any. Then the Messenger of Allah, may Allah bless him and grant him peace, brought some water in a vessel . He put his hand

into the vessel and then he told them all to do wudu from it." Anas added, "I saw water coming out from his fingers. Then all of them to the last man did wudu."

Book 2, Number 2.6.34:

Yahya related to me from Malik from Nuaym ibn Abdullah al-Madani al-Mujmir that he heard Abu Hurayra say, "If someone does wudu and does it correctly and then goes off intending to do the prayer, then he is in prayer as long as he intends to do the prayer. A good action is written for every alternate step he makes and a wrong action is erased for the second. When you hear the iqama do not lengthen your stride, and the one who has the greatest reward is the one whose house is farthest away." They said, "Why, Abu Hurayra?" He replied, "Because of the greater number of steps."

Book 2, Number 2.6.35:

Yahya related to me from Malik from Yahya ibn Said that he heard someone ask Said ibn al-Musayyab about washing off excreta with water. Said said, "That is the way women wash."

Book 2, Number 2.6.36:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "If a dog drinks from your vessel, wash it seven times."

Book 2, Number 2.6.37:

Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, said, "Try to go straight, although you will not be able to do so. Act, and the best of your actions is the prayer. And only a mumin is constant in his wudu."

Section: Wiping the Head and Ears

Book 2, Number 2.7.38:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used two fingers to take water to his ears.

Book 2, Number 2.7.39:

Yahya related to me from Malik that he had heard that Jabir ibn Abdullah al-Ansari was asked about wiping over a turban. He said, "Not unless you have wiped over your hair with water."

Book 2, Number 2.7.40:

Yahya related to me from Malik from Hisham ibn Urwa that Abu Urwa ibn az-Zubayr used to take off his turban and wipe his head with water.

Book 2, Number 2.7.41:

Yahya related to me from Malik from Nafi that she saw Safiyya bint Abi Ubayd, the

wife of Abdullah ibn 'Umar, take off her head-covering and wipe her head with water. Nafi was a child at the time.

Malik was asked about a man who did wudu but forgot to wipe his head until the water had dried. He said, "I consider that he should wipe his head and then repeat the prayer if he has already performed it."

Malik was asked about a man who did wudu but forgot to wipe his head until the water had dried. He said, "I consider that he should wipe his head and then repeat the prayer if he has already performed it."

Section: Wiping over Leather Socks

Book 2, Number 2.8.42:

Yahya related to me from Malik from Ibn Shihab from Abbad ibn Ziyad, a descendant of al-Mughira ibn Shuba from his father from al Mughira ibn Shuba that the Messenger of Allah, may Allah bless him and grant him peace, went to relieve himself during the expedition of Tabuk. Mughira said, "I went with him, taking water. Then the Messenger of Allah, may Allah bless him and grant him peace, came back and I poured out the water for him. He washed his hands and then went to push his hands out of the sleeves of his garment, but could not do so because of their narrowness. So he brought them out from underneath his garment. Then he washed his arms, wiped his head and wiped over his leather socks. The Messenger of Allah, may Allah bless him and grant him peace, returned and Abdar Rahman ibn Awf was leading the people in prayer, and he had already finished one raka with them. The Messenger of Allah, may Allah bless him and grant him peace, prayed the remaining raka with them to everyone's concern. When the Messenger of Allah, may Allah bless him and grant him peace, finished he said, 'You have acted correctly.' "

Book 2, Number 2.8.43:

Yahya related to me from Malik that Nafi and Abdullah ibn Dinar told him that Abdullah ibn Umar arrived at Kufa and went to Sad ibn Abi Waqqas, who was the Amir of Kufa at that time. Abdullah ibn Umar saw him wiping over his leather socks and disapproved of it. So Sad said to him, "Ask your father when you get back." Abdullah returned but forgot to ask Umar about the matter until Sad arrived and said, "Have you asked your father?" and he said, "No."

Abdullah then asked Umar and Umar replied, "If your feet are ritually pure when you put them in the leather socks then you can wipe over the socks." Abdullah said ,"What about if we have just come from relieving ourselves?" Umar said, "Yes, even if you have just come from relieving yourself."

Book 2, Number 2.8.44:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar urinated in the market place and then did wudu, washing his face and hands and wiping his head. Then as soon as he had come into the mosque, he was called to pray over a dead person, so he wiped over his leather socks and prayed.

Book 2, Number 2.8.45:

Yahya related to me from Malik that Said ibn Abd ar-Rahman ibn Ruqash said, "I saw Anas ibn Malik come and squat and urinate.Then water was brought and he did wudu. He washed his face, then his arms to the elbows, and then he wiped his head and wiped over his leather socks. Then he came to the mosque and prayed."

Yahya said that Malik was asked whether a man who did wudu for prayerand then put on his leather socks, and then urinated and took them off and put them back on again, should begin wudu afresh.

Malik replied, "He should take off his socks and wash his feet. Only someone who puts on leather socks when his feet are (already) ritually purified by wudu can wipe over them. Someone who puts on leather socks when his feet are not ritually purified by wudu, should not wipe over them."

Yahya said that Malik was asked about a man who did wudu with his leather socks on and forgot to wipe over them until the water was dry and he had prayed, and he said, "He should wipe over his socks and repeat the prayer but not repeat wudu."

Malik was asked about a man who washed his feet and put on his leather socks and then started doing wudu, and he said, "He should take off his socks and do wudu and wash his feet."

Section: How to Wipe over Leather Socks

Book 2, Number 2.9.46:

Yahya related to me from Malik from Hisham ibn Urwa that he saw his father wiping over his leather socks. He said, "When he wiped over his socks he would never do more than wipe the tops and he would not wipe the bottoms."

Book 2, Number 2.9.47:

Yahya related to me that Malik had asked Ibn Shihab how to wipe over leather socks. Ibn Shihab had put one hand under the sock and his other hand above the sock and then passed them over it.

Yahya said that Malik said, "Out of all that I have heard about the matter I like what Ibn Shihab said the most."

Section: Nose-Bleeds

Book 2, Number 2.10.48:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar would leave and do wudu if he had a nose-bleed and then return and complete his prayer without saying anything.

Section: How to Wipe over Leather Socks

Book 2, Number 2.11.49:

Yahya related to me from Malik from Nafi that Abdullah ibn Abbas used to have nose-bleeds and would leave to wash off the blood. He would then return and complete his prayer.

Book 2, Number 2.11.50:

Yahya related to me from Malik from Yazid ibn Abdullah Qusayt al-Laythi that he saw Said ibn al-Musayyab having a nose-bleed while praying. He went off to the room of Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, and water was brought to him and he did wudu. He then returned and completed his prayer.

Section: What to Do in the Event of a Nose-Bleed

Book 2, Number 2.12.51:

Yahya related to me that Abd ar-Rahman ibn Harmala al-Aslami said, "I saw Said ibn al-Musayyab with his nose bleeding and blood poured out of it so that his fingers were all red from the blood coming out of his nose, and he prayed without doing wudu."

Book 2, Number 2.12.52:

Yahya related to me from Malik from Abd ar Rahman ibn al-Mujabbar that he saw Salim ibn Abdullah with blood running from his nose so that his fingers were all coloured red. Then he rubbed it and prayed without doing wudu.

Section: What to Do in the Event of Bleeding from a Wound or a Nose-Bleed

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Book 2, Number 2.13.53:

Yahya related to me from Hisham ibn Urwa from his father that al-Miswar ibn Makhrama told him that he had visited Umar ibn al Khattab on the night he was stabbed and had woken him up for the subh prayer and Umar had said, "Yes. Whoever stops doing the prayer will get nothing from Islam," and he did the prayer with blood pouring from his wound.

Book 2, Number 2.13.54:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab was asked, "What do you say about someone who is afflicted by a nose-bleed which does not stop? "Malik said that Yahya ibn Said said that Said ibn al Musayyab said, "I say that he should signal with his head." (i.e. instead of doing sajda or ruku.)

Yahya said that Malik said, "That is what I like most out of what I have heard about the matter."

Section: Wudu on Account of Prostatic Fluid

Book 2, Number 2.14.55:

Yahya related to me from Malik from Abu'n Nadr, the mawla of Abdullah ibn Ubaydullah, from Sulayman ibn Yasar from alMiqdad ibn al-Aswad that Ali ibn Abi Talib told him to ask the Messenger of Allah, may Allah bless him and grant him peace, what a man should do, who, when close to his wife, had a flow of prostatic fluid. Ali explained that the daughter of the Messenger of Allah, may Allah bless him and grant him peace, was living with him then and he was too shy

to ask for himself. Al-Miqdad said, "I asked the Messenger of Allah, may Allah bless him and grant him peace, about it, and he said, 'When you find that, wash your genitals with water and do wudu as for prayer.' "

Book 2, Number 2.14.56:

Yahya related to me from Zayd ibn Aslam from his father that Umar ibn al-Khattab said, "I find it dropping from me like small beads. When you find that, wash your penis and do wudu as for prayer."

Book 2, Number 2.14.57:

Yahya related to me from Malik from Zayd ibn Aslam from his father that Jundub, the mawla of Abdullah ibn Ayyash, said, "I asked Abdullah ibn Umar about prostatic fluid and he said, 'When you find it, wash your genitals and do wudu as for prayer.' "

Section: Indulgence in Not Having to do Wudu for Prostatic Fluid

Book 2, Number 2.15.58:

Yahya related to me from Malik from Yahya ibn Said that he was listening to Said ibn al-Musayyab and a man questioned him saying, "I discover a liquid when I am praying. Should I leave?"

Said ibn al-Musayyab said to him, "Even if it were to flow on my leg I would not leave until I had finished the prayer."

Book 2, Number 2.15.59:

Yahya related to me from Malik that as-Salt ibn Zuyayd said, "I asked Sulayman ibn Yasar about a liquid I discovered. He said, 'Wash what is under your garments with water and forget about it.' "

Section: Wudu on Account of Touching the Genitals

Book 2, Number 2.16.60:

Yahya related to me from Malik that Abdullah ibn Abi Bakr ibn Muhammad ibn Amr ibn Hazim heard Urwa ibn az-Zubayr saying, "I went to see Marwan ibn al-Hakam and we talked about what you had to do wudu for, and Marwan said, 'You have to do wudu if you touch your penis.' Urwa said, 'I didn't know that.' Marwan ibn al-Hakam said that Busra bint Safwan had told him that she heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'If any of you touches his penis he should do wudu.' "

Book 2, Number 2.16.61:

Yahya related to me from Malik from Ismail ibn Muhammad ibn Sad ibn Abi Waqqas that Musab ibn Sad ibn Abi Waqqas said, "I was holding the Book for Sad ibn Abi Waqqas and I rubbed myself. Sad said, 'Did you touch your penis?' I replied, 'Yes,' and he said, 'Get up and do wudu.' So I got up and did wudu and then returned."

Book 2, Number 2.16.62:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "If you touch your penis you have to do wudu."

Book 2, Number 2.16.63:

Yahya related to me from Malik from Hisham ibn Urwa that his father used to say, "If any of you touches his penis he has to do wudu."

Book 2, Number 2.16.64:

Yahya related from Malik from Ibn Shihab that Salim ibn Abdullah said, "I saw my father Abdullah ibn Umar, do ghusl and then do wudu. I said to him, 'Father, isn't ghusl enough for you?' He said, 'Of course, but sometimes I touch my penis, so I do wudu.' "

Book 2, Number 2.16.65:

Yahya related to me from Malik from Nafi that Salim ibn 'Abdullah said, "I was with Abdullah ibn Umar on a journey and after the sun had risen I saw him do wudu and then pray. So I said to him, 'This isn't a prayer that you normally do. 'He said, 'After I had done wudu for the subh prayer, I touched my genitals. Then I forgot to do wudu. So I did wudu again and repeated my prayer.' "

Section: Wudu on Account of a Man Kissing His Wife

Book 2, Number 2.17.66:

Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah that his father Abdullah ibn Umar used to say, "A man's kissing his wife and fondling her with his hands are part of intercourse. Someone who kisses his wife or fondles her with his hand must do wudu."

Book 2, Number 2.17.67:

Yahya related to me from Malik that he had heard that Abdullah ibn Masud used to say, "Wudu is necessary if a man kisses his wife."

Book 2, Number 2.17.68:

Yahya related to me from Malik that Ibn Shihab used to say, "Wudu is necessary if a man kisses his wife." Nafi said that Malik said, "That is what I like most out of what I have heard."

Section: How to do Ghusl for Major Ritual Impurity

Book 2, Number 2.18.69:

Yahya related to me from Malik from Hisham ibn Urwa from his father from A'isha, umm al-muminin, that whenever the Messenger of Allah, may Allah bless him and grant him peace, did ghusl for major ritual impurity, he would begin by washing his hands, and then do wudu as for prayer. He would then put his fingers in the water and rub the roots of his hair with them. Then he would pour as much

water as two hands can hold on to his head three times, and over the entire surface of his skin.

Book 2, Number 2.18.70:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr from A'isha, umm al-muminin, that the Messenger of Allah, may Allah bless him and grant him peace, used to do ghusl for major ritual impurity from a vessel which contained a faraq.

Book 2, Number 2.18.71:

Yahya related to me from Malik from Nafi that when Abdullah ibn Umar used to do ghusl for major ritual impurity he would begin by pouring water on his right hand and washing it. Then, in order, he would wash his genitals, rinse his mouth, snuff water in and out of his nose, wash his face and splash his eyes with water. Then he would wash his right arm and then his left, and after that he would wash his head. He would finish by having a complete wash and pouring water all over himself.

Book 2, Number 2.18.72:

Yahya related to me from Malik that he had heard that A'isha was asked about how a woman should do ghusl for major ritual impurity. She said, "She should scoop water over her head with both hands three times and rub the roots of her hair with her hands."

Section: Obligation to Do Ghusl when the Two Circumcised Parts Meet

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Book 2, Number 2.19.73:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab that Umar ibn al-Khattab and Uthman ibn Affan and A'isha, the wife of the Prophet, may Allah bless him and grant him peace, used to say, "When the circumcised part touches the circumcised part, ghusl is obligatory."

Book 2, Number 2.19.74:

Yahya related to me from Malik from Abu'n Nadr, the mawla of Umar ibn Abdullah that Abu Salamaibn Abdar-Rahman ibn Awf related that he had asked A'isha, the wife of the Prophet, may Allah bless him and grant him peace, what made ghusl obligatory. She said, "Do you know what you are like, Abu Salama? You are like a chick when it hears the cocks crowing and so crows with them. When the circumcised part passes the circumcised part, ghusl is obligatory."

Book 2, Number 2.19.75:

Yahya related to me from Malik from Yahya ibn Said from Said ibn al-Musayyab that Abu Musa al-Ashari came to A'isha, the wife of the Prophet, may Allah bless him and grant him peace, and said to her, "The disagreement of the companions in a matter which I hate to bring before you has distressed me." She said, "What is that? You did not ask your mother about it, so ask me." He said, "A man penetrates his wife, but becomes listless and does not ejaculate. "She said, "When the circumcised part passes the circumcised part ghusl is obligatory." Abu Musa added, "I shall

never ask anyone about this after you."

Book 2, Number 2.19.76:

Yahya related to me from Malik from Yahya ibn Said from Abdullah ibn Kab, the mawla of Uthman ibn Affan that Mahmud ibn Labid al-Ansari asked Zayd ibn Thabit about a man who penetrated his wife but became listless and did not ejaculate. Zayd ibn Thabit said, "He does ghusl." Mahmud said to him, "Ubayy ibn Kab used not to think that ghusl was necessary," but Zayd ibn Thabit said, "Ubayy ibn Kab drew away from that before he died."

Book 2, Number 2.19.77:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "When the circumcised part passes the circumcised part, ghusl is obligatory."

Section: Wudu of a Person in a State of Major Ritual Impurity (Janaba)

Book 2, Number 2.20.78:

Yahya related to me from Malik from Abdullah ibn Dinar that Abdullah ibn Umar related that Umar ibn al-Khattab mentioned to the Messenger of Allah, may Allah bless him and grant him peace, that he would sometimes become junub in the night. The Messenger of Allah, may Allah bless him and grant him peace, said to him, "Do wudu and wash your penis, and then sleep."

Book 2, Number 2.20.79:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, used to say, "If you have intercourse with your wife and then wish to go to sleep before doing ghusl, do not sleep until you have done wudu as for prayer."

Book 2, Number 2.20.80:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar, if he wished to sleep or eat while junub, would wash his face, and his arms to the elbows, and wipe his head. Then he would eat or sleep.

2.20 The Repetition of the Prayer by a Person in a State of Major Ritual Impurity, his Doing Ghusl, when He has Prayed without Remembering it, and his Washing his Garments.

Section: The Repetition of the Prayer by a Person in a State of Major Ritual Impurity, his Doing Ghusl, when He has Prayed without Remembering it, and his Washing his Garments

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Book 2, Number 2.21.81:

Yahya related to me from Malik from Ismail ibn Abi Hakim that Ata ibn Yasar told him that the Messenger of Allah, may Allah bless him and grant him peace, said the takbir in one of the prayers and then indicated to them with his hand to stay in place. He left and then returned with traces of water on his skin.

Book 2, Number 2.21.82:

Yahya related to me from Malik from Hisham ibn Urwa that Zuyayd ibn as-Salt said, "I went with Umar ibn al-Khattab to Juruf and he looked down and noticed that he had had a wet dream and had prayed without doing ghusl. He exclaimed, 'By Allah I realise that I have had a wet dream and did not know it and have not done ghusl.' So he did ghusl and washed off whatever he saw on his garment, and sprinkled with water whatever he did not see.Then he gave the adhan or the iqama and prayed in the midmorning."

Book 2, Number 2.21.83:

Yahya related to me from Malik from Ismail ibn Abi Hakim from Sulayman ibn Yasar that Umar ibn al-Khattab went out early in the morning to his land in al-Juruf and found semen on his garment. He said, "I have been tried with wet dreams since I have been entrusted with governing the people." He did ghusl and washed his garment of what he saw of the semen, and then prayed after the sun had risen.

Book 2, Number 2.21.84:

Yahya related to me from Malik from Yahya ibn Said from Sulayman ibn Yasar that Umar ibn al-Khattab led the people in the subh prayer and then went out to his land in Juruf and found semen on his clothes. He said, "Since we have been eating rich meat our veins have become fulsome." He did ghusl, washed the semen from his clothing, and did his prayer again.

Book 2, Number 2.21.85:

Yahya related to me from Malik from Hisham ibn Urwa from his father fromYahyaibn Abd ar-Rahman ibn Ha ib that he had set off for Mumra with Umar ibn al-Khattab in a party of riders, among whom was Amr ibn al-As. Umar ibn al-Khattab dismounted for a rest late at night on a certain road near a certain oasis. Umar had a wet dream when it was almost dawn and there was no water among the riding party. He rode until he came to some water and then he began to wash off what he saw of the semen until it had gone. Amr ibn al-As said to him, "It is morning and there are clothes with us, so allow your garment to be washed. "Umar ibn al-Khattab said to him, "I am surprised at you, Amr ibn al-As! Even if you could find clothes, would everybody be able to find them? By Allah, if I were to do it, it would become a sunna. No, I wash what I see, and I sprinkle with water what I do not see."

Malik spoke about a man who found traces of a wet dream on his clothes and did not know when it had occurred and did not remember anything he had seen in his sleep. He said, "Let the intention of his ghusl be from the time when he last slept, and if he has prayed since that last sleep he should repeat it. This is because often a man has a wet dream and sees nothing, and often he sees something but does not have an emission. But, if he finds liquid on his garment he must do ghusl. This is because Umar repeated what he had prayed after the time he had last slept and not what was before it."

Section: Ghusl of a Woman when She Experiences the Same as a Man in Her Sleep

Book 2, Number 2.22.86:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr that Umm Sulayman said to the Messenger of Allah, may Allah bless him and grant him peace, "Should a woman do ghusl when she experiences the same as a man in her sleep?" The Messenger of Al lah said to her, "Yes, she should do ghusl. "A'isha said to her, "Shame on you! Does a woman see that?" (i.e. a liquid.) The Messenger of Allah, may Allah bless him and grant him peace, said to her, "May your right hand be full of dust. From where does family resemblance come?"

Book 2, Number 2.22.87:

Yahya related to me from Malik from Hisham ibn Urwa from his father from Zaynab bint Abi Salama that Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, said, "Umm Salama, the wife of Abu Talha al-Ansari, came to the Messenger of Allah, may Allah bless him and grant him peace, and said, 'Messenger of Allah! Allah is not ashamed of the truth-does a woman have to do ghusl if she has had an erotic dream?' He said, 'Yes, if she sees any liquid.' "

Section: Ghusl for Major Ritual Impurity

Book 2, Number 2.23.88:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "There is no harm in doing ghusl with water that has been used by one's wife as long as she is not menstruating or in a state of major ritual impurity (junub)."

Book 2, Number 2.23.89:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to sweat in a garment while he was junub and then pray with it on.

Book 2, Number 2.23.90:

Yahya related to me from Malik from Nafi that the slave girls of Abdullah ibn Umar used to wash his feet and bring him a mat of palm leaves while they were menstruating.

Malik was asked whether a man who had women and slavegirlscould have intercourse with all of them before he did ghusl. He said, "There is no harm in a man having intercourse with two of his slave girls before he does ghusl. It is disapproved of, however, to go to a freewoman on another's day. There is no harm in making love first to one slave girl and then to another when one is junub."

Malik was asked about a man who was junub and water was put down for him to do ghusl with.Then he forgot and put his finger into it to find out whether it was hot or cold. Malik said, "If no filth has soiled his fingers, I do not consider that that makes the water impure."

Section: Tayammum

Book 2, Number 2.24.91:

Yahya related to me from Malik from Abd arRahman ibn al-Qasim from his father that A'isha umm al-muminin said, "We went out on a journey with the Messenger of Allah, may Allah bless him and grant him peace, and, when we came to Bayda' or Dhat al-Jaysh, a necklace of mine broke. The Messenger of Allah, may Allah bless him and grant him peace, stopped to look for it and the people stopped with him. There was no water nearby and the people were not carrying any with them, so they came to Abu Bakr as-Siddiq and said, 'Don't you see what A'isha has done? She has made the Messenger of Allah, may Allah bless him and grant him peace, and the people stop when there is no water nearby and they are not carrying any with them.' "

A'isha continued, "Abu Bakr came and the Messenger of Allah, may Allah bless him and grant him peace, had fallen asleep with his head on my thigh . Abu Bakr said, 'You have made the Messenger of Allah, may Allah bless him and grant him peace, and the people stop when there is no water nearby and they are not carrying any with them ' "

She continued, "Abu Bakr remonstrated with me and said whatever Allah willed him to say, and began to poke me in the waist. The only thing that stopped me from moving was that the Messenger of Allah, may Allah bless him and grant him peace, had his head on my thigh. The Messenger of Allah, may Allah bless him and grant him peace, slept until morning found him with no water. Allah, the Blessed and Exalted, sent down the ayat of tayammum and so they did tayammum. Usayd ibn Hudayr said, 'This is not the first baraka from you, O family of Abu Bakr.'"

A'isha added, "We roused the camel I had been on and found the necklace under it."

Malik was asked whether a man who did tayammum for one prayer should do tayammum when the time of the next prayer came or whether the first tayammum was enough. He said, "No, he does tayammum for every prayer, because he has to look for water for every prayer. If he looks for it and does not find it then he does tayammum."

Malik was asked whether a man who did tayammum could lead others in prayer if they were in wudu. He said, "I prefer that someone else should lead them. However, I see no harm in it if he does lead them in prayer."

Yahya said that Malik said that a man who did tayammum because he could not find any water, and then stood and said the takbir and entered into the prayer, and then someone came with some water, did not stop his prayer but completed it with tayammum and did wudu for future prayers.

Yahya said that Malik said, "Whoever rises for prayer and does not find water and so does what Allah has ordered him to do of tayammum has obeyed Allah. Someone who does find water is neither purer than him nor more perfect in prayer, because both have been commanded and each does as Allah has commanded. What Allah has commanded as far as wudu is concerned is for the one who finds water, and tayammum is for the one who does not find water before he enters into the prayer."

Malik said that a man who was in a state of major ritual impurity could do tayammum and read his portion of Qur'an and do voluntary prayers as long as he did not find any water. This applied only to circumstances in which it was allowable to pray with tayammum.

Section: How to do Tayammum

Book 2, Number 2.25.92:

> Yahya related to me from Malik from Nafi that Abdullah ibn Umar and he were approaching Juruf. When they got to Mirbad, Abdullah got down and did tayammum with some good earth. He wiped his face, and his arms to the elbows, and then prayed.

Book 2, Number 2.25.93:

> Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to do tayammum up to his elbows.
>
> Malik was asked about how tayammum was done and what parts were covered and he said, "Strike the ground once for the face and once for the arms and wipe them to the elbows."

Section: Tayammum of Someone in a State of Major Ritual Impurity

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Book 2, Number 2.26.94:

> Yahya related to me from Malik from Abd arRahman ibn Harmala that a man asked Said ibn al-Musayyab about what a man who was junub and had done tayammum should do when he came across water. Said said, "When he comes across water he must do ghusl for what comes after."
>
> Malik said about some one who had a wet dream while he was on a journey and there was only enough water for wudu and he was not thirsty and so he did not need to use it for that, "Let him wash his genitals, and whatever the semen has fallen on, with the water and then he does tayammum with good earth as Allah has ordered him."
>
> Malik was asked whether a man who was junub and wished to do tayammum but could only find salty earth could do tayammum with that earth, and whether it was disapproved of to pray on salty earth. He said, "There is no harm in praying on salty earth or in using it to do tayammum, because Allah the Blessed and Exalted has said, '...and do tayammum with good earth.' One is purified by tayammum with everything that is earth, whether it is salty or otherwise."

Section: What is Permitted a Man from his Wife when She is Menstruating

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Book 2, Number 2.27.95:

> Yahya related to me from Malik from Zayd ibn Aslam that a man questioned the Messenger of Allah, may Allah bless him and grant him peace, saying, "What is permitted me from my wife when she is menstruating?" The Messenger of Allah, may Allah bless him and grant him peace, said, "Let her wrap her waist-wrapper round herself tightly, and then what is above that is your concern."

Book 2, Number 2.27.96:

> Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman that on one occasion A'isha, the wife of the Prophet, may Allah bless him and grant him peace,

was sleeping with the Messenger of Allah, may Allah bless him and grant him peace, in one garment, when suddenly she jumped up sharply. The Messenger of Allah, may Allah bless him and grant him peace, said to her, "What's the matter with you? Are you losing blood?", meaning menstruating. She said, "Yes." He said, "Wrap your waist-wrapper tightly about you, and return to your sleeping-place."

Book 2, Number 2.27.97:

Yahya related to me from Malik from Nafi that Ubaydullah ibn Abdullah ibn Umar sent a question to A'isha asking her, "May a man fondle his wife when she is menstruating?" She replied, "Let her wrap her waist-wrapper around her lower part and then he may fondle her if he wishes."

Book 2, Number 2.27.98:

Yahya related to me from Malik that he had heard that Salim ibn Abdullah and Sulayman ibn Yasar were asked whether the husband of a menstruating woman could have sexual intercourse with her when she saw that she was pure but before she had had a ghusl. They said, "No, not until she has had a ghusl."

Section: The Purity of a Menstruating Woman

Book 2, Number 2.28.99:

Yahya related to me from Malik from AIqama ibn Abi AIqama that his mother, the mawla of A'isha, umm al-muminin, said, "Women used to send little boxes to A'isha, umm al-muminin, with a piece of cotton cloth in each one on which was yellowness from menstrual blood, asking her about the prayer. She said to them, 'Do not be hasty until you see a white discharge." By that she meant purity from menses.

Book 2, Number 2.28.100:

Yahya related to me from Malik from Abdullah ibn Abi Bakr from his paternal aunt from the daughter of Zayd ibn Thabit that she had heard that women used to ask for lamps in the middle of the night to check their purity. She would criticise them for this saying, "Women never used to do this," i.e. in the time of the companions.

Book 2, Number 2.28.101:

Malik was asked whether a woman whose period had finished could do tayammum to purify herself if she could not find waterand he said, "Yes, because she is like some one in a state of major ritual impurity, who, if he cannot find water, does tayammum."

Section: Menstruation in General

Book 2, Number 2.29.102:

Yahya related to me from Malik that he had heard that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said that a pregnant woman who noticed bleeding left off from prayer.

Book 2, Number 2.29.103:

Yahya related to me from Malik that he asked Ibn Shihab about a pregnant woman who noticed bleeding. Ibn Shihab replied, "She refrains from prayer."

Yahya said that Malik said, "That is what is done in our community."

Book 2, Number 2.29.104:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "I used to comb the head of the Messenger of Allah, may Allah bless him and grant him peace, while I was menstruating."

Book 2, Number 2.29.105:

Yahya related to me from Malik from Hisham ibn Urwa from his father from Fatima bint al-Mundhir ibn az-Zubayr that Asma bint Abu Bakr as-Siddiq said, "A woman questioned the Messenger of Allah, may Allah bless him and grant him peace, saying, 'If menstrual blood gets onto our clothes how do you think we should deal with it?' The Messenger of Allah, may Allah bless him and grant him peace, said, 'If menstrual blood gets onto your clothes you should wash them, and sprinkle them with water before you pray in them.' "

Section: Bleeding as if Menstruating

Book 2, Number 2.30.106:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "Fatima bint Abu Hubaysh said, 'Messenger of Allah, I never become pure - am I permitted to pray?' The Messenger of Allah, may Allah bless him and grant him peace, said, 'That is a vein, not menstruation. So when your period approaches, leave off from the prayer, and when its grip leaves, wash the blood from yourself and pray.' "

Book 2, Number 2.30.107:

Yahya related to me from Malik from Nafi from Sulayman ibn Yasarfrom Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, that a certain woman in the time of the Messenger of Allah, may Allah bless him and grant him peace, used to bleed profusely, so Umm Salama consulted the Messenger of Allah, may Allah bless him and grant him peace, for her, and he said, "She should calculate the number of nights and days a month that she used to menstruate before it started happening, and she should leave off from prayerfor that much of the month. When she has completed that she should do ghusl, bind her private parts with a cloth, and then pray."

Book 2, Number 2.30.108:

Yahya related to me from Malik from Hisham ibn Urwa from his father from Zaynab bint Abu Salama that she saw Zaynab bint Jahsh, the wife of Abd ar-Rahman ibn Awf, and she used to bleed as if menstruating. She would do ghusl and pray.

Book 2, Number 2.30.109:

Yahya related to me from Malik from Sumayy, the mawla of Abu Bakr ibn Abd ar-Rahman that al-Qaqa ibn Hakim and Zayd ibn Aslam sent him to Said ibn al-Musayyab to ask how a woman who was bleeding as if menstruating should do ghusl. Said said, "She does a ghusl to cover from the end of one period to the end of the next, and does wudu for every prayer, and if bleeding overtakes her she should bind her private parts."

Book 2, Number 2.30.110:

Yahya related to me from Malik from Hisham ibn Urwa that his father said, "A woman who bleeds as if menstruating only has to do one ghusl, and then after that she does wudu for each prayer."

Yahya said that Malik said, "The position with us is that when a woman who bleeds as if menstruating starts to do the prayer again, her husband can have sexual intercourse with her. Similarly, if a woman who has given birth sees blood after she has reached the fullest extent that bleeding normally restrains women, her husband can have sexual intercourse with her and she is in the same position as a woman who bleeds as if menstruating."

Yahya said that Malik said, "The position with us concerning a woman who bleeds as if menstruating is founded on the hadith of Hisham ibn Urwa from his father, and it is what I prefer the most of what I have heard about the matter."

Section: The Urine of an Infant Boy

Book 2, Number 2.31.111:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "An infant boy was brought to the Messenger of Allah, may Allah bless him and grant him peace, and it urinated on him. The Messenger of Allah, may Allah bless him and grant him peace, called for some water and rubbed over the urine with it."

Book 2, Number 2.31.112:

Yahya related to me from Malik from Ibn Shihab from Ubaydullah ibn Abdullah ibn Utba ibn Masud from Umm Qays ibn Mihsan that she brought a baby boy of hers who was not yet eating food to the Messenger of Allah, may Allah bless him and grant him peace, and he sat it in his arms and it urinated on his garment, so the Messenger of Allah, may Allah bless him and grant him peace, called for some water and sprinkled over it but did not wash it.

Section: Urinating Standing and Otherwise

Book 2, Number 2.32.113:

Yahya related to me from Malik that Yahya ibn Said said, "A Bedouin came into the mosque and uncovered his private parts to urinate. The people called out to him and began to raise their voices but the Messenger of Allah, may Allah bless him and grant him peace, said ,'Let him be. 'So they let him be and he urinated. Then the Messenger of Allah, may Allah bless him and grant him peace, ordered a bucketful

of water to be brought and it was poured on the place."

Book 2, Number 2.32.114:

Yahya related to mefrom Malikthat Abdullah ibn Dinar said, "I saw Abdullah ibn Umar urinating while standing."

Yahya said that Malik was asked if any hadith had come down about washing the private parts of urine and faeces and he said, "I have heard that some of those who have passed away used to wash themselves of faeces. I like to wash my private parts of urine."

Section: The Tooth-stick (Siwak)

Book 2, Number 2.33.115:

Yahya related to me from Malik from Ibn Shihab from Ibn as-Sabbaq that the Messenger of Allah, may Allah bless him and grant him peace, said in a jumua, "Muslims! Allah has made this day a festival day (id) so do ghusl, and it will not harm whoever has perfume to apply some of it, and use a tooth-stick . "

Book 2, Number 2.33.116:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Were it not that I would be overburdening my community I would have ordered them to use a tooth-stick."

Book 2, Number 2.33.117:

Yahya related to me from Malik from Ibn Shihab from Humayd ibn Abdar-Rahman ibn Awf that Abu Hurayra said, "Were it not that he would be overburdening his community he (the Messenger of Allah, may Allah bless him and grant him peace,) would have ordered them to use a tooth-stick with each wudu."

Translation of Malik's Muwatta, Book 3:

Prayer

Section: The Call to Prayer

Book 3, Number 3.1.1:

Yahya related to me from Malik that Yahya ibn Said said, "The Messenger of Allah, may Allah bless him and grant him peace, had wanted to take two pieces of wood to strike them together to gather people for the prayer, and Abdullah ibn Zayd al-Ansari, then of the tribe of Harith ibn al-Khazraj, was shown two pieces of wood in his sleep. He said, 'These are close to what the Messenger of Allah, may Allah bless him and grant him peace, wants.' Then it was said, 'Do you not call to the prayer?', so when he woke up he went to the Messenger of Allah, may Allah bless him and grant him peace, and mentioned the dream to him. The Messenger of Allah, may Allah bless him and grant him peace, ordered the adhan."

Book 3, Number 3.1.2:

Yahya related to me from Malik from Ibn Shihab from Ata ibn Yazid al-Laythi from Abu Said al-Khudri that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you hear the adhan, repeat what the muadhdhin says."

Book 3, Number 3.1.3:

Yahya related to me from Malik from Sumayy, the mawla of Abu Bakr ibn Abd ar-Rahman, from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "If people knew what was in the adhan and the first row of the prayer and could only draw lots for it, they would draw lots. And if they knew what was in doing dhuhr early, they would race each other to it. And if they knew what was in isha and subh, they would go to them even if they had to crawl."

Book 3, Number 3.1.4:

Yahya related to me from Malik from al-Ala ibn Abd ar-Rahman ibn Yaqub from his father and Ishaq ibn Abdullah that they informed him that they heard Abu Hurayra say, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'When the iqama is called for prayer, do not come to it running, but come with calmness. Pray what you catch and complete what you miss. You are in prayer as long as your aim is the prayer.' "

Book 3, Number 3.1.5:

Yahya related to me from Malik from Abd arRahman ibn Abdullah ibn Abd ar-Rahman ibn Abu Sasaca al-Ansari, and later al-Mazini, that his father told him that Abu Said al-Khudri had said to him, "I see that you love sheep and the desert. When you are among your sheep or in your desert, call the prayer and raise your voice in the adhan, because I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'No jinn or man oranything within range hears the voice

of the muadhdhin except that it bears witness for him on the day of rising.' "

Book 3, Number 3.1.6:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When the call to prayer is made Shaytan retreats, passing wind, so that he will not hear the adhan. When the adhan is completed he comes back, until, when the iqama is said, he retreats again. When the iqama is completed, he comes back, until he comes between a man and his self and says, 'Think of such and such, think of such and such,' which he was not thinking about before, until the man does not know how much he has prayed."

Book 3, Number 3.1.7:

Yahya related to me from Malik from Abu Hazim ibn Dinar that Sahl ibn Sad as-Saidi said, "There are two times when the gates of heaven are opened, and few who make supplication have it returned to them unanswered. They are at the timeof the adhan, and in a rank of people fighting in the way of Allah."

Malik was asked whether the adhan on the day of jumua was called before the time had come for the prayer and he said, "It is not called until after the sun has passed the meridian."

Malik was asked about doubling the adhan and the iqama, and at what point people had to stand when the iqama for the prayer was called. He said, "I have heard nothing about the adhan and iqama except what I have seen people do. As for the iqama, it is not doubled. That is what the people of knowledge in our region continue to do. As for people standing up when the iqama for the prayer is called, I have not heard of any definite point at which it is begun, and I consider it rather to be according to people's (individual) capacity, for some people are heavy and some are light, and they are not able to be as one man ."

Malik was asked about a gathering of people who wished to do the prescribed prayer calling the iqama and not the adhan, and he said, "lt is enough for them. The adhan is only obligatory in mosques where the prayer is said in congregation."

Malik was asked about the muadhdhin saying "Peace be upon you" to the imam and calling him to the prayer, and he was asked who was the first person to whom such a greeting was made. He replied, "I have not heard that this greeting occurred in the first community."

Yahya said that Malik was asked whether a muadhdhin who called the people to prayer and then waited to see if anyone would come and no one did, so he said the iqama and did the prayer by himself and then people came after he had finished, should repeat the prayer with them. Malik said, "He does not repeat the prayer, and whoever comes after he has finished should do the prayer by himself."

Yahya said that Malik was asked about a muadhdhin who called the adhan for a group of people, did voluntary prayers, and then the group of people wanted to do the prayer with some one else saying the iqama. He said, "There is no harm in that. His iqama or somebody else's are the same."

Yahya said that Malik said, "The subh prayer is still called before dawn. As for the other prayers, we believe that they should only be called after the time has started."

Book 3, Number 3.1.8:

Yahya related to me from Malik that he had heard that the muadhdhin came to Umar ibn al-Khattab to call him to the subh prayer and found him sleeping, so he said, "Prayer is better than sleep," and Umar ordered him to put that in the adhan for subh .

Book 3, Number 3.1.9:

Yahya related to me from Malik from his paternal uncle Abu Suhayl ibn Malik that his uncle's father said, "I recognise nothing nowadays of what I saw the people (i.e. the companions of the Messenger, may Allah bless him and grant him peace) doing except the call to prayer."

Book 3, Number 3.1.10:

Yahya related to me from Malik that Abdullah ibn Umar heard the iqama while he was in Baqi, so he increased his pace of walking to the mosque.

Section: The Adhan During a Journey and Without Wudu

Book 3, Number 3.2.11:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar called the adhan on a cold and windy night and included the phrase, "Do the prayer in shelter." Then he said, "The Messenger of Allah, may Allah bless him and grant him peace, used to orderthe muadhdhin to say, 'Do the prayerin shelter' when it was a cold, rainy night "

Book 3, Number 3.2.12:

Yahya related to me from Malik from Nafi that on a journey Abdullah ibn Umar did no more than the iqama, except for subh, when he called both the adhan and the iqama. Abdullah ibn Umar used to say, "The adhan is for an imam whom people join ."

Book 3, Number 3.2.13:

Yahya related to me from Malik from Hisham ibn Urwa that his father said to him, "When you are on a journey you can, if you wish, call the adhan and the iqama, or, if you wish, the iqama and not the adhan."

Yahya said that he heard Malik say, "There is no harm in a man calling the adhan while riding."

Book 3, Number 3.2.14:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab used to say, "Whoever prays on waterless, desolate land - an angel prays on his right and an angel prays on his left. When he calls both the adhan and the iqama for the prayer, or calls out the iqama, angels like mountains pray behind him."

Section: The Duration of the Meal before Dawn (Sahur) in Relation to the

Adhan

Book 3, Number 3.3.15:

> Yahya related to me from Malik from Abdullah ibn Dinar from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Bilal calls the adhan whilst it is still night so eat and drink until Ibn Umm Maktum calls the adhan."

Section: The Adhan During a Journey and Without Wudu

Book 3, Number 3.4.16:

> Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah that the Messenger of Allah, may Allah bless him and grant him peace, said, "Bilal calls the adhan in the night, so eat and drink until Ibn Umm Maktum calls the adhan." Ibn Umm Maktum was a blind man who did not call the adhan until someone said to him, "The morning has come. The morning has come."

Section: The Opening of the Prayer

Book 3, Number 3.5.17:

> Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah from Abdullah ibn Umar that the Messengerof Allah, may Allah bless him and grant him peace, used to raise his hands to the level of his shoulders when he began the prayer and when he raised his head from the ruku he raised them in the same way, saying, "Allah hears whoever praises him, our Lord and praise belongs to You." He did not raise them in the sujud.

Book 3, Number 3.5.18:

> Yahya related to me from Malik from Ibn Shihab that AIi ibn Husayn ibn Ali ibn Abi Talib said, "The Messenger of Allah, may Allah bless him and grant him peace, used to say, 'Allah is greater' whenever he lowered himself and raised himself, and he continued to pray like that until he met Al lah ."

Book 3, Number 3.5.19:

> Yahya related to me from Malik from Yahya ibn Sa'id from Sulayman ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, used to raise his hands in the prayer.

Book 3, Number 3.5.20:

> Yahya related to me from Malik from Ibn Shihab from Abu Salama ibn Abdar-Rahman ibn Awf that Abu Hurayra used to lead them in prayer and would say "Allah is greater" whenever he lowered himself and raised himself. When he had finished he would say, "By Allah, I am the person whose prayer most resembles the prayer of the Messenger of Allah, may Allah bless him and grant him peace."

Book 3, Number 3.5.21:

> Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah that

Abdullah ibn Umar used to say "Allah is greater" in the prayer whenever he lowered himself and raised himself.

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to raise his hands to the level of his shoulders when he began the prayer and when he raised his head from the ruku he would raise them less than that.

Book 3, Number 3.5.22:

Yahya related to me from Malik from Abu Nuaym Wahb ibn Kaysan that Jabir ibn Abdullah used to teach them the takbir in the prayer. Abu Nuaym said, "He used to tell us to say 'Allah is greater' whenever we lowered or raised ourselves."

Book 3, Number 3.5.23:

Yahya related to me from Malik that Ibn Shihab used to say, "When a man catches the raka he says, 'Allah is greater' once, and that takbir is enough for him."

Malik added, "That is if he intended to begin the prayer by that takbir "

Malik was asked about a man who began with the imam but forgot the opening takbir and the takbir of the ruku until he had done one raka. Then he remembered that he had not said the takbir at the opening nor in the ruku,so he said the takbir in the second raka. He said, "I prefer that he start his prayer again, but if he forgets the opening takbir with the imam and says the takbir in the first ruku, I consider that enough for him if he intends by it the opening takbir."

Malik said, about some one who prayed by himself and forgot the opening takbir, "He begins his prayer afresh ."

Malik said, about an imam who forgot the opening takbir until he had finished his prayer, "I think that he should do the prayer again, and those behind him, even if they have said the takbir."

Section: The Recitation of Qur'an in the Maghrib and lsha Prayers

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Book 3, Number 3.6.24:

Yahya related to me from Malik from Ibn Shihab from Muhammad ibn Jubayr ibn Mutim that his father said, "I heard the Messenger of Allah, may Allah bless him and grant him peace, recite at-Tur (Sura 52) in the maghrib prayer."

Book 3, Number 3.6.25:

Yahya related to me from Malik from Ibn Shihab from Ubaydullah ibn Abdullah ibn Utba ibn Masud from Abdullah ibn Abbas that Umm al-Fadl bint al-Harith heard him reciting al Mursalat (sura 77) and she said to him, "My son, you have reminded me by reciting this sura that it was what I last heard the Messenger of Allah, may Allah bless him and grant him peace, recite in the maghrib prayer."

Book 3, Number 3.6.26:

26 Yahya related to me from Malik from Abu Ubayd, the mawla of Sulayman ibn Abd alMalik, from Ubada ibn Nusayy from Qays ibn al Harith that Abu Abdullah as-Sunabihi said, "I arrived in Madina in the khalifate of Abu Bakr as-Siddiq, and I

prayed maghrib behind him. He recited the umm al Qur'an and two suras from the shorter ones of the mufassal in the first two rakas. Then he stood up in the third and I drew so near to him that my clothes were almost touching his clothes. I heard him reciting the umm al-Qur'an and this ayat, 'Our Lord, do not make our hearts go astray after You have guided us, and give us mercy from Your presence. Surely You are the Giver. ' " (Sura 3 ayat 8)

Book 3, Number 3.6.27:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to recite in all four rakas as when he prayed alone - in every raka the umm al-Qur'an and another sura from the Qur'an. Sometimes he would recite two or three suras in one raka in the obligatory prayer. Similarly, he recited the umm al-Qur'an and two suras in the first two rakas of maghrib.

Book 3, Number 3.6.28:

Yahya related to me from Malik from Yahya ibn Said from Adi ibn Thabit al-Ansari that al-Barra ibn Azib said, "I prayed isha with the Messenger of Allah, may Allah bless him and grant him peace, and he recited at-Tin (Sura 95) in it."

Section: Behaviour in the Recitation

Book 3, Number 3.7.29:

Yahya related to me from Malik from Nafi from Ibrahim ibn Abdullah ibn Hunayn from hisfatherfromAliibnAbiTalibthattheMessengerof Allah, may Allah bless him and grant him peace, forbade wearing the qassi (an Egyptian garment, stripedwithsilk),wearing gold rings, and reciting the Qur'an in ruku.

Book 3, Number 3.7.30:

Yahya related to me from Malik from Yahya ibn Said from Muhammad ibn Ibrahim ibn al Harith at-Taymi from Abu Hazim at-Tammar from al Bayadi that the Messenger of Allah, may Allah bless him and grant him peace, came out to the people while they were praying and their voices were raised in the recitation. He said, "When you pray you are talking confidentially to your Lord. So look to what you confide to Him, and do not say the Qur'an out loud so that others hear it."

Book 3, Number 3.7.31:

Yahya related to me from Malik from Humayd at-Tawil that Anas ibn Malik said, "I stood behind Abu Bakr and Umar and Uthman and none of them used to recite 'In the name of Allah, the Merciful, the Compassionate' when they began the prayer."

Book 3, Number 3.7.32:

Yahya related to me from Malik from his paternal uncle Abu Suhayl ibn Malik that his father said, "We heard the recitation of Umar ibn al-Khattab when we were at the home of Abu Jahmin al-Balat." (Al-Balat was a place in Madina between the mosque and the market.)

Book 3, Number 3.7.33:

Yahya related to me from Malik from Nafi that when Abdullah ibn Umar missed anything of the prayer in which the imam recited out loud, he would stand up when the imam had said the taslim and recite what he owed out loud to himself.

Book 3, Number 3.7.34:

Yahya related to me from Malik that Yazid ibn Ruman said, "I used to pray next to Nafi ibn Jubayr ibn Mutim and he would nudge me to prompt him while we were praying."

Section: The Recitation in the Subh Prayer

Book 3, Number 3.8.35:

Yahya related to me from Malik from Hisham ibn Urwa from his father that Abu Bakr as-Siddiq prayed subh and recited suratal-Baqara in the two rak'as.

Book 3, Number 3.8.36:

Yahya related to me from Malik from Hisham ibn Urwa that his father heard Abdullah ibn Amir ibn Rabia say, "We prayed subh behind Umar ibn al-Khattab and he recited suraYusuf (Sura 12) and surat al-Hajj (Sura 22) slowly." I (Hisham's father) said, "By Allah, then it must have been his habit to get up at the crack of dawn." He said, "Of course."

Book 3, Number 3.8.37:

Yahya related to me from Malik from Yahya ibn Said and Rabia ibn Abi Abd arRahman from al-Qasim ibn Muhammad that al Furafisa ibn Umayral-Hanafi said, "I only learnt Sura Yusuf (Sura 12) from the recitation of it by Uthman ibn Affan in the subh prayer because of the great number of times he repeated it to us."

Book 3, Number 3.8.38:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to recite the first ten suras of the mufassal in the subh prayer, and on a journey he would recite the ummal-Qur'an and a sura in every raka.

Section: The Umm al-Qur'an

Book 3, Number 3.9.39:

Yahya related to me from Malik from al-Ala ibn Abd ar-Rahman ibn Yaqub that Abu Said, the mawla of Amir ibn Kuraz told him that the Messenger of Allah, may Allah bless him and grant him peace, called toUbayy ibn Kab while he was praying. When Ubayy had finished his prayer he joined the Messenger of Allah, may Allah bless him and grant him peace, and the Messenger of Allah put his hand upon his hand, and he was intending to leave by the door of the mosque, so the Messenger of Allah, may Allah bless him and grant him peace, said, "I hope that you will not leave the mosque until you know a sura whose like Allah has notsentdown in the Tawrah nor in the Injil nor in the Qur'an." Ubayysaid, "I began to slow down my pace in the hope of that. Then I said, 'Messenger of Allah, the sura you promised me!' He said, 'What do you recite when you begin the prayer?' I recited the Fatiha

(Sura 1) until I came to the end of it, and the Messengerof Allah, may Allah bless him and grant him peace, said, 'It is this sura, and it is the "seven oft-repeated" and the Great Qur'an which I was given.' "

Book 3, Number 3.9.40:

Yahya related to me from Malik from Abu Nuaym Wahb ibn Kaysan that he heard Jabir ibn Abdullah say, "Someone who prays a raka without reciting the umm al-Qur'an in it has not done the prayer except behind an imam."

Section: Reciting to Oneself behind the Imam when He does not Recite Aloud

Book 3, Number 3.10.41:

Yahya related to me from Malik from al-Ala ibn Abd ar-Rahman ibn Ya'qub that he heard Abu's-Sa'ib, the mawla of Hisham ibn Zuhra, say he had heard Abu Hurayra say, "I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'Whoever prays a prayer without reciting the umm al-Qur'an in it, his prayer is aborted, it is aborted, it is aborted, incomplete.' So I said, 'Abu Hurayra, sometimes I am behind the imam.'Hepulled my forearm and said, 'Recite it to yourself, O Persian, for I heard the Messenger of Allah, may Allah bless him and grant him peace, say that Allah the Blessed, the Exalted, said, "I have divided the prayer into two halves between me and my slave. One half of it is for Me and one half of it is for IVly slave, and My slave has what he asks." ' The Messenger of Allah, may Allah bless him and grant him peace, said, "Recite." The slave says, 'Praise be to AIIah, the Lord of theWorlds.' Allah the Blessed, the Exalted, says, 'My slave has praised Me.' The slave says, 'The Merciful, the Compassionate.' Allah says, 'My slave has spoken well of Me.' The slave says, 'Master of the Day of the Deen.' Allah says, 'My slave has glorified Me.' The slave says, 'You alone we worship and You alone we askforhelp.'Allahsays,'This ayat is between Me and My slave, and for My slave is what he asks. 'The slave says, 'Guide us in the straight Path, the Path of those whom You have blessed, not of those with whom You are angry, nor those who are in error. ' Allah says, 'These are for My slaves, and for my slave is what he asks . ' " ' "

Book 3, Number 3.10.42:

Yahya related to me from Malik from Hisham ibn Urwa that his father used to recite behind the imam when the imam did not recite aloud.

Book 3, Number 3.10.43:

Yahya related to me from Malik from Yahya ibn Said and from Rabia ibn Abi Abd ar Rahman that al-Qasim ibn Muhammad used to recite behind the imam when the imam did not recite aloud.

Book 3, Number 3.10.44:

Yahya related to me from Malik from Yazid ibn Ruman that Nafi ibn Jubayr ibn Mutim used to recite behind the imam when hedid not recite aloud .

Malik said, "That is the most preferable to me of what I have heard about the

matter."

Section: Not Reciting behind the Imam when He Recites Aloud

Book 3, Number 3.11.45:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar, when asked if anyone should recite behind an imam, said, "When you pray behind an imam then the recitation of the imam is enough for you and when you pray on your own you must recite." Nafi added, "Abdullah ibn 'Umar used not to recite behind the imam."

Yahya said that he heard Malik say, "The position with us is that aman recites behind the imam when the imam does not recite aloud and he refrains from reciting when the imam recites aloud."

Book 3, Number 3.11.46:

Yahya related to me from Malik from Ibn Shihab from Ibn Ukayma al-Laythi from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, finished a prayer in which he had recited aloud and asked, "Did any of you recite with me just now?" One man said, "Yes, I did, Messenger of Allah." The Messenger of Allah, may Allah bless him and grant him peace, said, "I was saying to myself, 'Why am I distracted from the Qur'an?' " When the people heard the Messenger of Allah, may Allah bless him and grant him peace, say that, they refrained from reciting with the Messenger of Allah, may Allah bless him and grant him peace, when he recited aloud.

Section: Saying 'Amin' behind the Imam

Book 3, Number 3.12.47:

Yahya related to me from Malik from Ibn Shihab that Sa'id ibn al-Musayyab and Abu Salama ibn Abd ar-Rahman told him from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When the imam says 'Amin', say 'Amin', for the one whose 'Amin' coincides with the 'Amin' of the angels - his previous wrong actions are forgiven him."

Ibn Shihab said, "The Messenger of Allah, may Allah bless him and grant him peace, used to say 'Aameen' (extending it)."

Book 3, Number 3.12.48:

Yahya related to me from Malik from Sumayy, the mawla of Abu Bakr, from Abu Salih as Samman, from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When the imam has said, 'not of those with whom You are angry nor of those who are in error,' say 'Amin', for the previous wrong actions of the one whose utterance coincides with that of the angels, are forgiven him."

Book 3, Number 3.12.49:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When one of you says 'Amin' and the angels in the sky say 'Amin' so that one coincides

with the other, his previous wrong actions are forgiven him."

Book 3, Number 3.12.50:

Yahya related to me from Malik from Sumayy, the mawla of Abu Bakr, from Abu Salih as-Samman from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When the imam says, 'Allah hears whoever praises Him,' say 'O Allah! Our Lord, praise be toYou, 'for the previous wrong actions done by the one whose utterance coincides with that of the angels are forgiven."

Section: Behaviour in the Sitting in the Prayer

Book 3, Number 3.13.51:

Yahya related to me from Malik from Muslim ibn Abi Maryam that AIi ibn Abd ar-Rahman al-Muawi said, "Abdullah ibn Umar saw me playing with some small pebbles in the prayer. When I finished he forbade me, saying, 'Do as the Messenger of Allah, may Allah bless him and grant him peace, did.' I said, 'What did the Messenger of Allah, may Allah bless him and grant him peace, do?' He said, 'When he sat in the prayer, he placed his right hand on his right thigh and he closed his fist and pointed his index finger, and he placed his left hand on his left thigh. That is what he used to do.' "

Book 3, Number 3.13.52:

Yahya related to me from Malik from Abdullah ibn Dinar that he had seen Abdullah ibn Umar with a man praying at his side. When the man sat in the fourth raka, heput both feet to one side and crossed them. When Abdullah finished, he disapproved of that to him, and the man protested, "But you do the same." Abdullah ibn Umar said, "I am ill."

Book 3, Number 3.13.53:

Yahya related to me from Malik from Sadaqa ibn Yasar that al-Mughira ibn Hakim saw Abdullah ibn Umar sit back from the two sajdas of the prayer onto the top of his feet. When he had finished, al-Mughira mentioned it to him, and Abdullah ibn Umar explained, "It is not a sunna of the prayer. I do it because I am ill."

Book 3, Number 3.13.54:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim that Abdullah ibn Umar told him that he used to see Abdullah ibn Umar cross his legs in the sitting position of the prayer.He said, "So I did the same, and I was young at the time. Abdullah ibn Umar forbade me and said, 'The sunna of the prayer is that you keep your right foot vertical and lay your left foot down.' I said to him, 'But you do the same (as I did).' He said, 'My feet do not support me.' "

Book 3, Number 3.13.55:

Yahya related to me from Malik from Yahya ibn Said that al-Qasim ibn Muhammad showed them how to sit in the tashahhud, and he kept his right foot vertical and laid his left foot down, and sat on his left haunch not on his foot. Then he said, "Abdullah ibn Abdullah ibn Umar saw me doing this and related to me that

his father used to do the same thing."

Section: Tashahhud in the Prayer

Book 3, Number 3.14.56:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr from Abd ar-Rahman ibn Abd al-Qari that he heard Umar ibn al-Khattab say, while he was teaching people the tashahhud from the mimbar, "Say, Greetings belong to Allah. Pure actions belong to Allah. Good words and prayers belong to Allah. Peace on you, Prophet, and the mercy of Allah and His blessings. Peace be upon us and on the slaves of Allah who are salihun. I testify that there is no god except Allah. And I testify that Muhammad is His slave and His messenger."

'At-tahiyatu lillah, az-zakiyatu lillah, at-tayibatu wa's-salawatu lillah. As-salamu alayka ayyuha'nnabiyyu wa rahmatu'llahi wa barakatuhu. As-salamu alayna wa ala ibadi'llahi s-salihin. Ash-hadu an la ilaha illa 'llah wa ash-hadu anna Muhammadan abduhu wa rasuluh."

Book 3, Number 3.14.57:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say the tashahhud saying, "In the name of Allah. Greetings belong to Allah. Prayers belong to Allah. Pure actions belong to Allah. Peace be on the Prophet and the mercy of Allah and His blessings. Peace be on us and on the slaves of Allah who are salihun. I testify that there is no god except Allah. I testify that Muhammad is the Messenger of Allah."

"Bismillah, at-tahiyatu lillah, as-salawatu lillah, az-zakiyatu lillah. As-salamu ala'n-nabiyyi wa rahmatullahi wa barakatuhu. As-salamu alayna wa ala ibadi'llahi's-salihin. Shahidtu an la ilaha illallah. Shahidtu anna Muhammadu'r-rasulu'llah."

He used to say this after the first two rakas and he would make supplication with whatever seemed fit to him when the tashahhud was completed. When he sat at the end of the prayer, he did the tashahhud in a similar manner, except that after the tashahhud he made supplication with whatever seemed fit to him. When he had completed the tashahhud and intended to say the taslim, he said, "Peace be on the Prophet and His mercy and blessings. Peace be upon us and on the slaves of Allah who are salihun."

"As-salamu ala'n-nabiyyi wa rahmatu'llahi wa barakatuhu. As-salamu alayna wa ala ibadi'llahi'ssalihin ."

He then said, "Peace be upon you" to his right, and would return the greeting to the imam, and if anyone said "Peace be upon you" from his left he would return the greeting to him.

Book 3, Number 3.14.58:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim from his father that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, used to say in the tashahhud, "Greetings, good words, prayers, pure actions belong to Allah. I testify that there is no god except Allah, alone without partner, and that

Muhammad is His slave and His Messenger. Peace be on you, Prophet, and the mercy of Allah and His blessings. Peace be on us and on the slaves of Allah who are salihun. Peace be upon you."

"At-tahiyatu, at-tayibatu, as-salawatu, az-zakiyatu lillah. Ash-hadu an la ilaha illa'llah, wahdahu la sharika lah wa anna Muhammadan abduhu wa rasuluhu. As-salamu alayka ayyuha-n-nabiyyu wa rahmatu-llahi wa barakatuhu. As-salamu alayna wa ala ibadi-llahi's-salihin. As-salamu alaykum."

Book 3, Number 3.14.59:

Yahya related to me from Malik from Yahya ibn Said al-Ansari that al-Qasim ibn Muhammad ibn Muhammad told him that A'isha, the wife of the prophet, may Allah bless him and grant him peace, used to say in the tashahhud, "Greetings, good words, prayers, pure actions belong to Allah. I testify that there is no god except Allah, alone without partner, and I testify that Muhammad is the slave of Allah and His Messenger. Peace be upon you, Prophet, and the mercy of Allah and His blessings. Peace be upon us and on the slaves of Allah who are salihun . Peace be upon you . "

"At-tahiyatu, at-tayibatu, as-salawatu, az-zakiyatu lillah. Ash-hadu an la ilaha illa'llah, wahdahu la sharika llah wa ash-hadu anna Muhammadan abduhu wa rasuluhu. As-salamu alayka ayyuha-n-nabiyyu wa rahmatu-llahi wa barakatuhu. As-salamu alayna wa ala ibadi-llahi's-salihin. As-salamu alaykum."

Book 3, Number 3.14.60:

Yahya related to me from Malik that he asked Ibn Shihab and Nafi, the mawla of Ibn Umar, whether a man who joined an imam who had already done a raka should say the tashahhud with the imam in the second and fourth rakas, even though these were odd for him? They said, "He should say tashahhud with him."

Malik said, "That is the position with us."

Section: What to Do If One Raises One's Head Before the Imam

Book 3, Number 3.15.61:

Yahya related to me from Malik from Muhammad ibn Amr ibn AIqama from Malik ibn Abdullah as-Sadi that Abu Hurayra said, "The one who raises his head and lowers it before the imam - his forelock is in the hand of a shaytan."

Malik said, concerning someone who forgot and raised his head before the imam in ruku or sujud, "The sunna of that is to return to bowing or prostrating and not to wait for the imam to come up. What he has done is a mistake, because the Messenger of Allah, may Allah bless him and grant him peace, said, 'The imam is appointed to be followed as a leader, so do not oppose him.' Abu Hurayra said, 'The one who raises his head and lowers it before the imam - his forelock is in the hand of a shaytan.' "

Section: What to Do if through Forgetfulness One Says the Taslim after Two Rakas

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Book 3, Number 3.16.62:

Yahya related to me from Malik from Ayyub ibn Abi Tamima as-Sakhtayani from Muhammad ibn Sirin from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, finished the prayer after two rakas and Dhu'l-Yadayn said to him, "Has the prayer been shortened or have you forgotten, Messenger of Allah?" The Messenger of Allah, may Allah bless him and grant him peace, said, "Has Dhu'l-Yadayn spoken the truth?" The people said, "Yes," and the Messenger of Allah, may Allah bless him and grant him peace, stood and prayed the other two rakas and then said, "Peace be upon you." Then he said, "Allah is greater" and went into a sadja as long as his usual prostrations or longer. Then he came up and said, "Allah is greater" and went into a sajda as long as his usual prostrations or longer and then came up.

Book 3, Number 3.16.63:

Yahya related to me from Malik from Da'ud ibn al-Husayn that Abu Sufyan, the mawla of Ibn Abi Ahmad, said that he heard Abu Hurayra say, "The Messenger of Allah, may Allah bless him and grant him peace, prayed asr and said the taslim after two rakas. Dhu'l-Yadayn stood up and said, 'Has the prayer been shortened, Messenger of Allah, or have you forgotten?' The Messenger of Allah, may Allah bless him and grant him peace, stood up and completed what remained of the prayer, and then, remaining sitting after saying the taslim, he made two prostrations."

Book 3, Number 3.16.64:

Yahya related to me from Malik from Ibn Shihab that Abu Bakr ibn Sulayman ibn Abi Hathma said, "I have heard that the Messenger of Allah, may Allah bless him and grant him peace, prayed two rakas of one of the two day-ti me prayers, dhuhr or asr, and said the taslim after two rakas. Dhu'sh-Shamalayn said to him, 'Has the prayer been shortened, Messenger of Allah, or have you forgotten?' The Messenger of Allah, may Allah bless him and grant him peace, said, 'The prayer has not been shortened and I have not forgotten.' Dhu'shShamalayn said, 'It was certainly one of those, Messenger of Allah.' The Messenger of Allah, may Allah bless him and grant him peace, approached the people and said, 'Has Dh u'sh-Shamalayn spoken the truth?' They said, 'Yes, Messenger of Allah,' and the Messenger of Allah, may Allah bless him and grant him peace, completed what remained of the prayer, and then said, 'Peace be upon you.' "

Book 3, Number 3.16.65:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab, and from Abu Salama ibn Abd ar-Rahman, the same as that.

Malik said, "Every forgetfulness which decreases from the prayer, prostrations for it come before the greeting, and every forgetfulness which is an addition to the prayer, prostrations for it come after the greeting."

Section: Completing what is Recalled When Uncertain how much has been Prayed

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Book 3, Number 3.17.66:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that the

Messenger of Allah, may Allah bless him and grant him peace, said, "If you are uncertain in the prayer and do not know whether you have prayed three or four rakas, then pray a raka and make two prostrations from the sitting position before the taslim. If the raka that you prayed was the fifth, then you make it even by these two sajdas, and if it was the fourth, then the two prostrations spite Shaytan."

Book 3, Number 3.17.67:

Yahya related to me from Malik from Umar ibn Muhammad ibn Zayd from Salim ibn Abdullah that Abdullah ibn Umar used to say, "If you are uncertain in the prayer, estimate what you think you have forgotten of the prayer and repeat it, then do the two sajdas of forgetfulness from the sitting position."

Book 3, Number 3.17.68:

Yahya related to me from Malik from Afif ibn Amr as-Sahmi that Ata ibn Yasar said, "I asked Abdullah ibn Amr ibn al-As and Kab al Ahbar about someone who was uncertain in his prayer, and did not know whether he had prayed three or four rakas. Both of them said, 'He should pray another raka and then do two sajdas from the sitting position.' "

Book 3, Number 3.17.69:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar, when questioned about forgetfulness in the prayer, said, "If you think that you have forgotten part of the prayer, then pray it."

Section: What to Do if One Stands After the Completion of the Prayer or After Two Rakas

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Book 3, Number 3.18.70:

Yahya related to me from Malik from Ibn Shihab from al-Araj that Abdullah ibn Buhayna said, "The Messenger of Allah, may Allah bless him and grant him peace, prayed two rakas with us and then stood without sitting and the people stood with him. When he had finished the prayerand we had seen him say the taslim, he said 'Allah is greater' and did two sajdas from the sitting position and then said the taslim again."

Book 3, Number 3.18.71:

Yahya related to me from Malik from Yahya ibn Said from Abd ar-Rahman ibn Hurmuz that Abdullah ibn Buhayna said, "The Messengerof Allah, may Allah bless him and grant him peace, prayed dhuhr with us and he stood straight up after two rakas without sitting. When he had finished the prayer, he did two sajdas and then said the taslim after that."

Malik said, concerning someone who forgot in his prayer and stood up after he had completed four rakas and recited and then went into ruku and then, when he raised his head from ruku, remembered that he had already completed (his prayer), "He returns to a sitting position and does not do any sajda. If he has already done one sajda I do not think he should do the other. Then when his prayer is finished he does two sajdas from the sitting position after saying the taslim."

Section: Looking in the Prayer at What Distracts You from It

Book 3, Number 3.19.72:

Yahya related to me from Malik from AIqama ibn Abi AIqama from his mother that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "Abu Jahm ibn Hudhayfa gave the Messenger of Allah, may Allah bless him and grant him peace, a fine striped garment from Syria and he did the prayer in it. When he had finished he said, 'Give this garment back to Abu Jahm. I lookedat its stripes in the prayer and they almost distracted me.' "

Book 3, Number 3.19.73:

Malik related to me from Hisham ibn Urwa from his father that the Messenger of Allah, may Allah bless him and grant him peace, wore a fine striped garment f rom Syria, and then gave it to Abu Jahm and took a plain, rough, garment in return. Abu Jahm asked, "Messenger of Allah! Why?" He said, "I looked at its stripes in the prayer."

Book 3, Number 3.19.74:

Malik related to me from Abdullah ibn Abi Bakr that Abu Talha al-Ansari was praying in his garden when a wild pigeon flew in and began to fly to and fro trying to find a way out. The sight was pleasing to him and he let his eyes follow the bird for a time and then he went back to his prayer but could not remember how much he had prayed. He said, "A trial has befallen me in this property of mine." So he came to the Messenger of Allah, may Allah bless him and grant him peace, and mentioned the trial that had happened to him in his garden and said, "Messenger of Allah, it is a sadaqa for Allah, so dispose of it wherever you wish."

Book 3, Number 3.19.75:

Yahya related to me from Malik from Abdullah ibn Abi Bakr that a man from the Ansar was praying in a garden of his in Quff, one of the valleys of Madina, during the date season and the palms' branches were weighed down with fruit on all sides. He looked at them and what he saw of their fruits amazed him. Then he went back to his prayer and he did not know how much he had prayed. He said, "A trial has befallen me in this property of mine." So he went toUthman ibn Affan, who was the khalifa at the time, and mentioned it to him and said, "It is sadaqa, so give it away in the paths of good." Uthman ibn Affan sold it for fifty thousand and so that property became known as the Fifty.

Translation of Malik's Muwatta, Book 4:

Forgetfulness in Prayer

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Section: What to Do if One Forgets in Prayer

Book 4, Number 4.1.1:

Yahya related to me from Malik from Ibn Shihab from Abu Salama ibn Abdar-Rahman ibn Awf from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you stand in prayer, Shaytan comes to you and confuses you until you do not know how much you have prayed. If you find that happening do two sajdas from the sitting position."

Book 4, Number 4.1.2:

Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, said, "I forget or I am made to forget so that I may establish the sunna."

Book 4, Number 4.1.3:

Yahya related to me from Malik that he had heard that a man questioned al-Qasim ibn Muhammad saying, "My imagination works in the prayer, and it happens to me a lot." Al-Qasim ibn Muhammad said, "Go on with your prayer, for it will not goaway from you until you goaway saying, 'I have not completed my prayer.' "

Translation of Malik's Muwatta, Book 5:

Jumu'a

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Section: Doing Ghusl on the Day of Jumua

Book 5, Number 5.1.1:

Yahya related to me from Malik from Sumayy, the mawla of Abu Bakr ibn Abd ar-Rahman, from Abu Salih as-Sammani from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "If someone does ghusl for major ritual impurity on the day of jumua and then goes in the first part of the time, it is as if he had offered up a camel. If he goes in the second part of the time, it is as if he had offered up a cow. If he goes in the third part of the time, it is as if he had offered up a horned ram. If he goes in the fourth part of the time, it is as if he had offered up a hen. If he goes in the fifth part of the time, it is as if he had offered up an egg. And when the imam comes out, the angels settle down listening to the dhikr (remembrance of Allah)."

Book 5, Number 5.1.2:

Yahya related to me from Malik from Said ibn Abi Said al-Maqburi that Abu Hurayra used to say, "Doing ghusl as prescribed for major ritual impurity is incumbent (wajib) on the day of jumua on every male who has reached puberty."

Book 5, Number 5.1.3:

Yahya related to me from Malik from Ibn Shihab that Salim ibn Abdullah said, "One of the companions of the Messenger of Allah, may Allah bless him and grant him peace, came into the mosque on the day of jumua and Umar ibn al Khattab was already giving the khutba. Umar said, 'What (kind of) time is this (to arrive)?' He said, Amir al-muminin, I returned from the market and heard the call to prayer, so I did no more than do wudu.' Umar said, 'You only did wudu as well? You know that the Messenger of Allah, may Allah bless him and grant him peace, used to tell people to do ghusl.' "

Book 5, Number 5.1.4:

Yahya related to me from Malik from Safwan ibn Sulaym from Ata ibn Yasar from Abu Said al-Khudri that the Messenger of Allah, may Allah bless him and grant him peace, said, "Ghusl on the day of jumua is incumbent on every male who has reached puberty."

Book 5, Number 5.1.5:

Yahya related to me from Malik from Nafi from Ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you come to jumua, do ghusl."

Malik said, "It is not enough for someone to do a ghusl on the day of jumua and

intend by it the ghusl for jumua unless he does the ghusl and then sets off. That is because the Messenger of Allah, may Allah bless him and grant him peace, said in the hadith related by Ibn Umar, 'When you come to jumua, do ghusl .' "

Malik said, "If someone does ghusl on the day of jumua and intends by it the ghusl of the day of jumua and then sets out, whether early or late, and does something which breaks his wudu, he only has to do wudu and his ghusl remains valid for him."

Section: Paying Atlention when the Imam is Giving the Khutba on the Day of Jumua

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Book 5, Number 5.2.6:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Even saying to your companion 'Listen' while the imam is giving the khutba on the day of jumua, is to speak foolishly."

Book 5, Number 5.2.7:

Yahya related to me from Malik from Ibn Shihab that Thalaba ibn Abi Malik al Quradhi informed him that in the time of Umar ibn al Khattab they used to pray on the day of jumua until Umar came out, and when Umar came out and sat on the mimbar and the muadhdhins called the adhan, they would sit and talk, and then when the muadhdhins were silent and Umar stood to give the khutba, they would pay attention and no-one would speak .

Ibn Shihab said, "The imam coming out stops prayer and his speaking stops conversation."

Book 5, Number 5.2.8:

Yahya related to me from Malik from Abu'n Nadr, the mawla of Umar ibn Ubaydullah, from Malik ibn Abi Amir that Uthman ibn Affan used to say in khutbas, and he would seldom omit it if he was giving the khutba, "When the imam stands delivering the khutba on the day of jumua, listen and pay attention, for there is the same portion for someone who pays attention but cannot hear as for someone who pays attention and hears. And when the iqama of the prayer is called, straighten your rows and make your shoulders adjacent to each other, because the straightening of the rows is part of the completion of the prayer." Then he would not say the takbir until some men who had been entrusted with straightening the rows came and told him that they were straight. Then he would say the takbir.

Book 5, Number 5.2.9:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar saw two men talking while the imam was giving the khutba on the day of jumua and he threw pebbles at them to tell them to be quiet.

Book 5, Number 5.2.10:

Yahya related to me from Malik that he had heard that a man sneezed on the day of jumua while the imam was giving the khutba, and a man by his side asked Allah to

bless him. Said ibn al Musayyab was asked about it and he forbade the man to do what he had done and said, "Don't do it again."

Book 5, Number 5.2.11:

Yahya related to me from Malik that he asked Ibn Shihab about talking in the jumua after the imam had come down from the mimbar but before he had said the takbir. Ibn Shihab said, "There is no harm in that."

Section: Concerning Someone Who Catches a Raka of the Jumua Prayer

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Book 5, Number 5.3.12:

Yahya related to me from Malik that Ibn Shihab used to say, "Some one who catches a raka of the jumua prayer should pray another one with it." Ibn Shihab said, "That is the sunna."

Malik said, "I saw the people of knowledge in our city doing that. That is because the Messenger of Allah, may Allah bless him and grant him peace, said, 'Whoever catches a raka of the prayer has caught the prayer.' "

Malik said, concerning some one who was in a crowd on the day of jumua and did the ruku but was not able to go into sajda until the imam had risen or finished his prayer, "If he is able to do the sajda and has already done the ruku then he should do the sajda when the people stand up. If he is unable to do thesajda until after the imam has finished the prayer, then I prefer that he begins the prayeragain and does the four rakas of dhuhr."

Section: Nose Bleeds on the Day of Jumua

Book 5, Number 5.4.13:

Malik said, "Someone who has a nosebleed on the day of jumua while the imam is giving the khutba and he leaves and does not come back until the imam has finished the prayer, should pray four rakas."

Malik said that someone who prayed a raka with the imam on the day of jumua, then had a nosebleed and left and came back and the imam had prayed both rakas, should complete the prayer with another raka as long as he had not spoken.

Malik said, "If some one has a nosebleed, or something happens to him and he has no alternative but to leave, he does not have to ask permission of the imam if he wants to leave on the day of jumua."

Section: Making Haste on the Day of Jumua

Book 5, Number 5.5.14:

Yahya related to me from Malik that he had asked Ibn Shihab about the word of Allah, the Majestic, the Mighty, "O you who accept, when the call is made for the prayer on the day of jumua, make haste to the remembrance of Allah."(Sura 62 ayat 9). Ibn Shihab said, "Umar ibn al-Khattab used to recite, 'When the call is made for the prayer on the day of jumua, go to the remembrance of Allah.' "

Malik said, "Making haste in the Book of Allah is only deed and action. Allah the

Blessed, the Exalted, says 'and when he turns away, he acts in the land' (Sura 2 ayat 205), and He, the Exalted, said, 'and as for the one who comes to you acting with fear' (Sura 80 ayat 8), and He said, 'then he turned his back, and acted' (Sura 79 ayat 22),and He said, 'Your deeds are diverse' " (Sura 92 ayat 4). Malik said, "Thus making haste which Allah mentions in His Book is not running on the feet or exertion. It only means deed and actions."

Section: The Imam's Stopping Off in a Town on the Day of Jumua

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Book 5, Number 5.6.15:

Malik said, "If the imam stops off on a journey in a town where jumua is obligatory and he gives a khutba and takes the jumua prayer for them, then the people of the town and any other people present do the jumua prayer with him."

Malik said, "If the imam gathers people for prayer while he is travelling in a town where the jumua prayer is not obligatory, then there is no jumua for him, nor for the people of the town, nor for anyone else who joins them for the prayer in congregation, and the people of the town and anyone else who is not travelling should complete the prayer."

Malik added, "A traveller does not have to do jumua "

Section: The Special Time in the Day of Jumua

Book 5, Number 5.7.16:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, mentioned the day of jumua and said, "There is a time in it when Allah gives to a muslim slave standing in prayer whatever he asks for," and the Messenger of Allah, may Allah bless him and grant him peace, indicated with his hand how small it was.

Book 5, Number 5.7.17:

Yahya related to me from Malik from Yazid ibn Abdullah ibn al-Had from Muhammad ibn Ibrahim ibn al-Harith at-Taymi from Abu Salama ibn Abd ar-Rahman ibn Awf that Abu Hurayra said, "I went out to at-Tur (Mount Sinai) and met Kab al Ahbar and sat with him. He related to me things from the Tawrah and I related to him things from the Messenger of Allah, may Allah bless him and grant him peace. Among the things I related to him was that the Messenger of Allah, may Allah bless him and grant him peace, said, 'The best of days on which the sun rises is the day of jumua. In it Adam was created, and in it he fell from the Garden. In it he was forgiven, and in it he died. In it the Hour occurs, and every moving thing listens from morning till sunset in apprehension of the Hour except jinn and men. In it is a time when Allah gives toa muslim slave standing in prayer whatever he asks for.' Kab said, 'That is one day in every year.' I said, 'No, in every jumua.' Then Kab recited the Tawrah and said, 'The Messenger of Allah has spoken the truth.' "

Abu Hurayra continued, "I met Basra ibn Abi Basra al-Ghiffari and he said, 'Where have you come from?' I said, 'From at-Tur.' He said, 'If I had seen you before you left, you would not have gone. I heard the Messenger of Allah, may Allah bless him and grant him peace, say, "Only make a special journey to three mosques: the mosque of the Haram (Makka), this mosque (Madina), and the mosque of Ilya or

the Bait al-Maqdis (two names of Jerusalem)." ' " (He was not sure which expression was used.)

Abu Hurayra continued, "Then I met Abdullah ibn Salam and I told him that I had sat with Kabal-Ahbar, and I mentioned what I had related to him about the day of jumua, and told him that Kab had said, 'That is one day in every year.' Abdullah ibn Salam said, 'Kab lied,' and I added, 'Kab then recited the Tawrah and said, "No, it is in every jumua." ' Abdullah ibn Salam said, 'Kab spoke the truth. 'Then Abdullah ibn Salam said, 'I know what time that is.' "

Abu Hurayra continued, "I said to him, 'Let me know it - don't keep it from me.' Abdullah ibn Salam said, 'It is the last period of time in the dayof jumua.' "

Abu Hurayra continued, "I said, 'How can it be the last period of time in the day of jumua, when the Messenger of Allah, may Allah bless him and grant him peace, said, "a muslim slave standing in prayer", and that is a time when there is no prayer?' Abdullah ibn Salam replied, 'Didn't the Messenger of Allah, may Allah bless him and grant him peace, say, "Whoever sits waiting for the prayer is in prayer until he prays?" "'

Abu Hurayra added, "I said, 'Of course.' He said, 'Then it is that.' "

Section: Good Appearance and Not Stepping Over People and Facing the Imam on the Day of Jumua

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Book 5, Number 5.8.18:

Yahya related to me from Malik from Yahya ibn Said that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, said, "There is nothing wrong in wearing two garments which are not work-clothes for jumua."

Book 5, Number 5.8.19:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar would never go to jumua without wearing oil and perfume except when it was forbidden (i.e. when he was muhrim).

Book 5, Number 5.8.20:

Yahya related to me from Malik from Nafi from Abdullah ibn Abi Bakr ibn Hazm from whoever related it to him that Abu Hurayra used to say, "It is better for a man to pray on the surface of al Harra (a rocky area in Madina) than for him to wait until the imam stands to give the khutba and then come and step over people's necks."

Malik said, "The sunna with us is that the people face the imam on the day of jumua when he intends to give the khutba, whether they are near the qibla or elsewhere."

Section: The Recitation in the Jumua Prayer, the Sitting, and Missing the Prayer Without a Reason

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Book 5, Number 5.9.21:

Yahya related to me from Malik from Damra ibn Said al-Mazini from Ubaydullah ibn Abdullah ibn Utba ibn Masud that ad-Dahhak ibn Qays asked an-Numan ibn

Bashir, "What did the Messenger of Allah, may Allah bless him and grant him peace, use to recite on the day of jumua after suratal-Jumua (Sura 62)?" He said, "He used to recite al-Ghashiya (Sura 88)."

Book 5, Number 5.9.22:

Yahya related to me from Malik that Safwan ibn Sulaym said, "If anyone omits jumua three times without reason or illness, Allah will set a seal on his heart." (Malik said, "I don't know if it was from the Messenger of Allah, may Allah bless him and grant him peace, or not.")

Book 5, Number 5.9.23:

Yahya related to me from Malik from Jafar ibn Muhammad from his father that the Messenger of Allah, may Allah bless him and grant him peace, gave two khutbas on the day of jumua and sat down between them.

Translation of Malik's Muwatta, Book 6:

Prayer in Ramadan

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Section: Stimulation of the Desire for Prayer in Ramadan

Book 6, Number 6.1.1:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr from A'isha, the wife of the Prophet, may Allah bless him and grant him peace, that the Messenger of Allah, may Allah bless him and grant him peace, prayed in the mosque one night and people prayed behind him. Then he prayed the next night and there were more people. Then they gathered on the third or fourth night and the Messenger of Allah, may Allah bless him and grant him peace, did not come out to them. In the morning, he said, "I saw what you were doing and the only thing that prevented me from coming out to you was that I feared that it would become obligatory (fard) for you." This happened in Ramadan.

Book 6, Number 6.1.2:

Yahya related to me from Malik from Ibn Shihab from Abu Salama ibn Abd ar-Rahman ibn Awf from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, used to exhort people to watch the night in prayer in Ramadan but never ordered it definitely. He used to say, "Whoever watches the night in prayer in Ramadan with trust and expectancy, will be forgiven all his previous wrong actions."

Ibn Shihab said, "The Messenger of Allah, may Allah bless him and grant him peace, died while that wasstill the custom, and it continued to be the custom in the khalifate of Abu Bakr and at the beginning of the khalifate of Umar ibn al-Khattab."

Section: Watching the Night in Prayer

Book 6, Number 6.2.3:

Malik related to me from Ibn Shihab from Urwa ibn az-Zubayr that Abd ar-Rahman ibn Abd al-Qari said, "I went out with Umar ibn alKhattab in Ramadan to the mosque and the people there were spread out in groups. Some men were praying by themselves, whilst others were praying in small groups. Umar said, 'By Allah! It would be better in my opinion if these people gathered behind one reciter.' So he gathered them behind Ubayy ibn Kab. Then I went out with him another night and the people were praying behind their Qur'an reciter. Umar said, 'How excellent this new way is, but what you miss while you are asleep is better than what you watch in prayer.' He meant the end of the night, and people used to watch the beginning of the night in prayer."

Book 6, Number 6.2.4:

Yahya related to me from Malik from Muhammad ibn Yusuf that as-Sa'ib ibn Yazid said, "Umar ibn al-Khattab ordered Ubayy ibn Kab and Tamim ad-Dari to watch the

night in prayer with the people for eleven rakas.The reciterof the Qur'an would recite the Mi'in (a group of medium-sized suras) until we would be leaning on our staffs from having stood so long in prayer. And we would not leave until the approach of dawn."

Book 6, Number 6.2.5:

Yahya related to me from Malik that Yazid ibn Ruman said, "The people used to watch the night in prayer during Ramadan for twenty-three rakas in the time of Umar ibn al-Khattab."

Book 6, Number 6.2.6:

Yahya related to me from Malik from Da'ud ibn al-Husayn that he heard al-Araj say, "I never saw the people in Ramadan, but that they were cursing the disbelievers." He added, "The reciter of Qur'an used to recite surat al-Baqara in eight rakas and if he did it in twelve rakas the people would think that he had made it easy."

Book 6, Number 6.2.7:

Yahya related to me from Malik that Abdullah ibn Abi Bakr said, "I heard my father say, 'We finished praying in Ramadan and the servants hurried with the food, fearing the approach of dawn.' "

Book 6, Number 6.2.8:

Yahya related to me from Malik from Hisham ibn Urwa from his father that Dhakwan Abu Amr (a slave belonging to A'isha, the wife of the Prophet, may Allah bless him and grant him peace, who was freed by her after her death) used tostand in prayer and recite for her in Ramadan.

Translation of Malik's Muwatta, Book 7:

Tahajjud

Section: Concerning Prayer in the Night

Book 7, Number 7.1.1:

Yahya related to me from Malik from Muhammad ibn al-Munkadir from Said ibn al-Jubayr that a man who has approval (as a relater of hadith), told him that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "If a man prays in the night and sleep overcomes him during it, Allah writes for him the reward of his prayer, and his sleep is sadaqa for him."

Book 7, Number 7.1.2:

Yahya related to me from Malik from Abu'nNadr, the mawla of Umar ibn 'Ubaydullah, from Abu Salama ibn Abd ar-Rahman that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "I was sleeping in front of the Messenger of Allah, may Allah bless him and grant him peace, and my feet were in his qibla. When he prostrated, he nudged me and I pulled up my feet,and when he stood up I spread them out." She added, "There were no lamps in the house at that time."

Book 7, Number 7.1.3:

Yahya related to me from Malik from Hisham ibn Urwa from his father from A'isha, the wife of the Prophet, may Allah bless him and grant him peace, that the Messenger of Allah, may Allah bless him and grant him peace, said, "If you are drowsy in prayer, sleep until sleep leaves you, because if you pray while you are drowsy, you do not know whether you may intend to ask for forgiveness but (in fact) ask for harm."

Book 7, Number 7.1.5a:

Yahya related to me from Malik from Ismail from Ibn Abi Hakim that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, heard a woman praying at night. He said, "Who is that?" and someone said to him,"It is al-Hawla bint Tuwayt, she does not sleep in the night." The Messenger of Allah, may Allah bless him and grant him peace, disapproved of that and his disapproval showed in his face. Then he said, "Allah, the Blessed and Exalted, does not become weary, but you become weary. Take on whatever is within your capability."

Book 7, Number 7.1.5b:

Yahya related to me from Malik from Zayd ibn Aslam from his father that Umar ibn al-Khattab used to pray as much as Allah willed in the night until at the end of the night he would wake his family for the prayer. He used to say to them, "The prayer, the prayer." Then he would recite the ayat, "Enjoin prayer on your family and be constant in it. We do not ask you for your provision. We provide for you. And the

end result is for taqwa." (Sura 20 ayat 132)

Book 7, Number 7.1.6:

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab used to say, "Sleep is disapproved of before isha and conversation after it."

Book 7, Number 7.1.7:

Yahya related to me from Malik that he had heard that Abdullah ibn Umar used to say, "(Voluntary) prayer in both the day and night is two at a time with a taslim after every raka."

Malik said, "That is the custom among us. "

Section: How the Prophet, may Allah bless him and grant him peace, Prayed the Witr

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Book 7, Number 7.2.8:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr from A'isha, the wife of the Prophet, may Allah bless him and grant him peace, that the Messenger of Allah, may Allah bless him and grant him peace, used to pray eleven rakas in the night, making them odd by a single one, and when he had finished he lay down on his right side.

Book 7, Number 7.2.9:

Yahya related to me from Malik from Said ibn Abi Said al-Maqburi from Abu Salama ibn Abd ar-Rahman ibn Awf that he asked A'isha, the wife of the Prophet, may Allah bless him and grant him peace, what the prayer of the Messenger of Allah, may Allah bless him and grant him peace, was like during Ramadan. She said, "The Messenger of Allah, may Allah bless him and grant him peace, did not go above eleven rakas in Ramadan or at any other time. He prayed four - do not ask me about their beauty or length. Then he prayed another four - do not ask me about their beauty and length. Then he prayed three."

A'isha continued, "I said, 'Messenger of Allah, are you sleeping before you do the witr?' He said, A'isha, my eyes sleep but my heart does not sleep.' "

Book 7, Number 7.2.10:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, umm al-muminin said, "The Messenger of Allah, may Allah bless him and grant him peace, used to pray thirteen rakas in the night and then would pray two rakas when he heard the adhan for the subh prayer."

Book 7, Number 7.2.11:

Yahya related to me from Malik from Makhrama ibn Sulayman from Kurayb, the mawla of Ibn Abbas, that Abdullah ibn Abbas told him that he had spent a night at the house of Maimuna, the wife of the Prophet, may Allah bless him and grant him peace, who was also Ibn Abbas' mother's sister. Ibn Abbas said, "I lay down with my head on the breadth of the cushion, and the Messenger of Allah, may Allah

bless him and grant him peace, and his wife lay down with their heads on its length. The Messenger of Allah, may Allah bless him and grant him peace, slept, until, halfway through the night or a little before or after it, he awoke and sat up and wiped the sleep away from his face with his hand. Then he recited the last ten ayats of sura Ali Imran (Sura3). Then he got up and went over to a water-skin which was hanging up and did wudu from it, doing his wudu thoroughly, and then he stood in prayer."

Ibn Abbas continued, "I stood up and did the same and then went and stood by his side. The Messenger of Allah, may Allah bless him and grant him peace, put his right hand on my head and took my right ear and tweaked it. He prayed two rakas, then two rakas, then two rakas, then two rakas, then two rakas, then two rakas, and then prayed an odd raka. Then he lay down until the muadhdhin came to him, and then prayed two quick rakas, and went out and prayed subh ."

Book 7, Number 7.2.12:

Yahya related to me from Malik from Abdullah ibn Abi Bakr from his father that Abdullah ibn Qays ibn Makhrama told him that Zayd ibn Khalid al-Juhani said one night that he was going to observe the prayer of the Messenger of Allah, may Allah bless him and grant him peace. He said, "I rested my head on his threshold. The Messenger of Allah, may Allah bless him and grant him peace, got up and prayed two long, long, long rakas. Then he prayed two rakas which were slightly less long than the two before them. Then he prayed two rakas which were slightly less long than the two before them. Then he prayed two rakas which were slightly less long than the two before them. Then he prayed two rakas which were slightly less long than the two before them. Then he prayed two rakas which were slightly less long than the two before them. Then he prayed an odd raka, making thirteen rakas in all."

Section: The Command to Pray the Witr

Book 7, Number 7.3.13:

Yahya related to me from Malik from Nafi and Abdullah ibn Umar that a man asked the Messenger of Allah, may Allah bless him and grant him peace, about night prayers. The Messenger of Allah, may Allah bless him and grant him peace, said, "Night prayers are two by two, and when you are afraid that dawn is approaching, pray one raka to make what you have prayed odd."

Book 7, Number 7.3.14:

Yahya related to me from Malik from Yahya ibn Said from Muhammad ibn Yahya ibn Habban from Ibn Muhayriz that a man from the Kinana tribe called al-Mukhdaji heard a man in Syria known as Abu Muhammad saying, "The witr is obligatory (fard)." Al-Mukhdaji said, "I went to Ubada ibn as-Samit and presented myself to him as he was going to the mosque, and told him what Abu Muhammad had said. Ubada said that Abu Muhammad had lied and that he had heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'Allah the Majestic and Mighty has written five prayers for mankind, and whoever does them and does not waste anything of them by making light of what is due to them, there is a pact for him with Allah that He will admit him into the Garden.Whoever does not do them, there is no pact for him with Allah. If He wishes, He punishes him, and if He wishes, He admits him into the Garden.' "

Book 7, Number 7.3.15:

Yahya related to me from Malik from Abu Bakr ibn Umar that Said ibn Yasar said, "I was travelling with Abdullah ibn Umar on the road to Makka, and fearing that it was nearly dawn. I dismounted and prayed witr. Abdullah said, 'Is there not a model for you in the Messenger of Allah, may Allah bless him and grant him peace?' I said, 'Of course, by Allah!' He said, 'The Messenger of Allah, may Allah bless him and grant him peace, used to pray witr on his camel.' "

Book 7, Number 7.3.16:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab said, "Abu Bakr as-Siddiq used to pray witr when he wished to go to bed, and Umar ibn al-Khattab used to pray witr at the end of the night. As for me, I pray witr when I go to bed."

Book 7, Number 7.3.17:

Yahya related to me from Malik that he had heard that a man asked Abdullah ibn Umar whether the witr was obligatory and Abdullah ibn Umar said, "The Messenger of Allah, may Allah bless him and grant him peace, prayed witr, and the muslims prayed witr." The man began repeating his question, and Abdullah ibn Umar kept saying, "The Messenger of Allah, may Allah bless him and grant him peace, prayed witr, and the muslims prayed witr."

Book 7, Number 7.3.18:

Yahya related to me from Malik that he had heard that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, used to say, "If someone fears that he will sleep through till the morning, let him pray the witr before he sleeps, and if some one hopes to wake for the last part of the night, let him delay his witr."

Book 7, Number 7.3.19:

Yahya related to me from Malik that Nafi said, "I was with Abdullah ibn Umar in Makka. The sky was clouded over and Abdullah feared that dawn was approaching so he prayed one raka for witr. Then the clouds cleared and he saw that it was still night, so he made his prayers even with one raka. Then he continued to pray two rakas at a time, until when he feared the approach of dawn, he prayed one raka for witr."

Book 7, Number 7.3.20:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say the taslim between the two rakas and the one raka of witr so that he could order something he needed.

Book 7, Number 7.3.213:

Yahya related to me from Malik from Ibn Shihab that Sad ibn Abi Waqqas used to pray witr after isha with one raka.

Malik said, "This is not the situation with us. Rather three is the minimum for witr."

Book 7, Number 7.3.22:

Yahya related to me from Malik from Abdullah ibn Dinar that Abdullah ibn Umar used to say, "The maghrib prayer is the witr of the daytime prayers."

Malik said, "If someone prays witr at the beginning of the night, and goes to sleep, and then wakes up and it seems good to him to pray, let him pray, two rakas at a time. That is what I like most of what I have heard."

Book 7, Number 7.3.23:

Yahya related to me from Malik from Abd al Karim ibn Abi'l-Mukhariq al-Basri from Said ibn Jubayr that Abdullah ibn Abbas slept, and when he woke up, he said to his servant, "Go and see what the people have done," (by that time his sight had gone.) The servant went out and returned saying, "The people have left from subh," so Abdullah ibn Abbas got up and prayed witr and then prayed subh.

Book 7, Number 7.3.24:

Yahya related to me from Malik that he had heard that Abdullah ibn Abbas and Ubada ibn as-Samit and al-Qasim ibn Muhammad and Abdullah ibn Amir ibn Rabia had all prayed witr after the break of dawn.

Book 7, Number 7.3.25:

Yahya related to me from Malik from Hisham ibn Urwa from his father that Abdullah ibn Masud said, "I do not mind if the iqama for the subh prayer is called while I am still praying witr."

Book 7, Number 7.3.26:

Yahya related to me from Malik that Yahya ibn Said said, "Ubada ibn as-Samit used to lead the people in prayer. One day he came out for subh and the muadhdhin began to give the iqama for the subh prayer Ubada silenced him, prayed witr and then led them in subh."

Book 7, Number 7.3.27:

Yahya related to me from Malik that Abd ar-Rahman ibn al-Qasim said, "I heard Abdullah ibn Amir ibn Rabia say, 'I sometimes pray witr while hearing the iqama, or after the break of dawn.' " Abd ar-Rahman was not certain which he said.

Book 7, Number 7.3.28:

Malik related to me that Abd ar-Rahman ibn al-Qasim heard his father al-Qasim ibn Muhammad say, "I have prayed witr after dawn."

Malik said, "Only a person who oversleeps so that he does not do the witr prays it after dawn. No one should intentionally make his witr after dawn."

Section: The Two Rakas of Fajr

Book 7, Number 7.4.29:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that Hafsa, the wife of the Prophet, may Allah bless him and grant him peace, told him that the Messenger of Allah, may Allah bless him and grant him peace, used to pray two quick rakas when the muadhdhin had finished the adhan for the subh prayer, before the iqama was said for the prayer.

Book 7, Number 7.4.30:

Malik related to me from Yahya ibn Said that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "The Messenger of Allah, may Allah bless him and grant him peace, used to pray the two rakas of the dawn (fajr) so quickly that I would say to myself 'Has he recited the umm al-Qur'an or not?' "

Book 7, Number 7.4.31:

Yahya related to me from Malik from Sharik ibn Abdullah ibn Abi Namir that Abu Salama ibn Abd ar-Rahman said, "Some people heard the iqama and started to pray. The Messenger of Allah, may Allah bless him and grant him peace, came out and said, 'Are you doing two prayers at the same time? Are you doing two prayers at the same time?' That was about the subh prayer and the two rakas before subh."

Book 7, Number 7.4.32:

Yahya related to me from Malik that he had heard that Abdullah ibn Umar missed the two rakas of dawn, and then did them after the sun rose.

Book 7, Number 7.4.33:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim that al-Qasim ibn Muhammad had done the same as Ibn Umar.

Translation of Malik's Muwatta, Book 8:

Prayer in Congregation

Section: The Superiority of Prayer in Congregation over Prayer Done Alone

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Book 8, Number 8.1.1:

> Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Prayer in congregation is better than the prayer of a man by himself by twenty-seven degrees."

Book 8, Number 8.1.2:

> Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Prayer in congregation is better than the prayer of one of you on his own by twenty-five parts."

Book 8, Number 8.1.3:

> Yahya related to me from Malik from Abu'zZinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "By Him in whose hand myself is! I had in mind to order firewood to be collected, then to order the prayer to be called, and to appoint a man to lead the people in prayer, and then to come up behind certain men and burn their houses down about them! By Him in whose hand myself is! If one of them knew that he would find a meaty bone or two good legs of meat, he would be present at isha."

Book 8, Number 8.1.4:

> Yahya related to me from Malik from Abu'n-Nadr, the mawla of Umar ibn Ubaydullah from Yusr ibn Said that Zayd ibn Thabit said, "The most excellent prayer is your prayer in your house, except for the prescribed prayers."

Section: The Isha and Subh Prayers

Book 8, Number 8.2.5:

> Yahya related to me from Malik from Abd ar-Rahman ibn Harmala al-Aslami from Said ibn al-Musayyab that the Messenger of Allah, may Allah bless him and grant him peace, said, "What separates us from the hypocrites is being present at isha and subh. They cannot do it," or words to that effect.

Book 8, Number 8.2.6:

> Yahya related to me from Malik from Sumayy, the mawla of Abu Bakr ibn Abd ar-Rahman from Abu Salih from Abu Hurayra that the Messenger of Allah, may

Allah bless him and grant him peace, said, "If a man who is walking along a road finds a branch of thorns on the road and removes it, Allah thanks him for doing it and forgives him."

He also said, "Martyrs are five: the one killed by a plague, the one killed by a disease of the belly, the one who drowns, the one killed by a collapsing building, and the martyr in the path of Allah.'

He also said, "If people knew what there was in the call to prayer and the first row, and they could find no other way except to draw lots for it, they would draw lots for it. And if they knew what there was in doing dhuhr at its time, they would race each other to it. And if they knew what there was in the prayers of isha and maghrib, they would come to them even if they had to crawl .

Book 8, Number 8.2.7:

Yahya related to me from Malik from Ibn Shihab from Abu Bakr ibn Sulayman ibn Abi Hathma that Umar ibn al-Khattab missed Sulayman ibn Abi Hathma in the subh prayer. In the morning he went to the market, and Sulayman's house was between the market and the Prophet's mosque. He passed ash-Shifa, Sulayman's mother, and said to her, "I did not see Sulayman at subh." She replied, "He spent the night in prayer and his eyes overcame him. Umar said, "I would rather be present at subh than stand the whole night in prayer.

Book 8, Number 8.2.8:

Yahya related to me from Malik from Yahya ibn Said from Muhammad ibn Ibrahim that Abd ar-Rahman ibn Abi Amra al-Ansari said that Uthman ibn Affan came to the isha prayer and seeing only a few people in the mosque, he lay down at the back of the mosque to wait for the number of people to increase. Ibn Abi Amra went and sat down beside him and Uthman asked him who he was, so he told him. Uthman said, "What have you memorised of the Qur'an?", and he told him. Uthman said, "If someone is present at isha, it is as if he had stood in prayer for half a night, and if some one is present at subh, it is as if he had stood in prayer for a whole night.

Section: Doing the Prayer Again with the Imam

Book 8, Number 8.3.9:

Yahya related to me from Malik from Zayd ibn Aslam from a man of the Bani'd-Dil called Busr ibn Mihjan from his father Mihjan that he was in a gathering with the Messenger of Allah, may Allah bless him and grant him peace, and the call to prayer was made. The Messenger of Allah, may Allah bless him and grant him peace, rose and prayed and then returned. Mihjan remained sitting and did not pray with him. The Messenger of Allah, may Allah bless him and grant him peace, said, "What prevented you from praying with the people? Aren't you a muslim?" He said, "Of course, Messenger of Allah, but I have already prayed with my family." The Messenger of Allah, may Allah bless him and grant him peace, said, "When you come, pray with the people, even if you have prayed already."

Book 8, Number 8.3.10:

Yahya related to me from Malik from Nafi that a man asked Abdullah ibn Umar,

"Sometimes I pray in my house, and then catch the prayer with the imam. Should I pray with him?" Abdullah ibn Umar said to him, "Yes," and the man said, "Which of them do I make my prayer?" Abdullah ibn Umar said, "Is that up to you? It is up to Allah. He will decide on whichever of them He wishes."

Book 8, Number 8.3.11:

Yahya related to me from Malik from Yahya ibn Said that a man asked Said ibn al-Musayyab, "I pray in my house, and then I come to the mosque and find the imam praying. Should I pray with him?" Said said, "Yes," and the man said, "Which of them is my prayer?" Said said, "Are you the one to decide that? That is up to Allah."

Book 8, Number 8.3.12:

Yahya related to me from Malik from Afif as-Sahmi that a man from the tribe of Bani Asad asked Abu Ayyub al-Ansari. "Sometimes I pray in my house, and then come to the mosque and find the imam praying. Should I pray with him?" Abu Ayyub said, "Yes, pray with him, for some one who does so has the reward of the group, or the equivalent of the reward of the group."

Book 8, Number 8.3.13:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "Someone who prays maghrib or subh and then catches them with the imam should not repeat them."

Malik said, "I do not see any harm in someone who has already prayed in his house praying with the imam, except for maghrib, because if he repeats it, he makes it even."

Section: Praying in a Group of People

Book 8, Number 8.4.14:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you lead people in the prayer, make it short, because there are among them some people who are weak, ill and old. But when you pray on your own, make it as long as you wish."

Book 8, Number 8.4.15:

Yahya related to me from Malik that Nafi said, "I stood behind Abdullah ibn Umar in one of the prayers when there was no one else with him, and he reached behind with his hand and placed me beside him."

Book 8, Number 8.4.16:

Yahya related to me from Malik from Yahya ibn Said that a man used to lead the people in prayer in al-Aqiq (a place near Madina), and Umar ibn Abd al-Aziz sent a message to him forbidding him to do so.

Malik said, "He only forbade him because his father was not known."

Section: Prayer Behind an Imam when He Prays Sitting

Book 8, Number 8.5.17:

> Yahya related to me from Malik from Ibn Shihab from Anas ibn Malik that the Messenger of Allah, may Allah bless him and grant him peace, fell off his horse when riding, and his right side was scraped, so he did one of the prayers sitting, and we prayed behind him sitting. When he left, he said, "The imam is appointed to be followed. If he prays standing, then pray standing, and when he goes into ruku, go into ruku, and when he rises, rise, and when he says, 'Allah hears whoever praises him,' say, 'Our Lord, praise belongs to You,' and if he prays sitting, then all of you pray sitting."

Book 8, Number 8.5.18:

> Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "The Messenger of Allah, may Allah bless him and grant him peace, prayed while he was ill. He prayed sitting, and some people prayed behind him standing, and he indicated to them to sit down. When he left, he said, 'The imam is only appointed to be followed. When he goes into ruku, go into ruku and when he rises, rise and if he prays sitting, pray sitting .' "

Book 8, Number 8.5.19:

> Yahya related to me from Malik from Hisham ibn Urwa from his father that the Messenger of Allah, may Allah bless him and grant him peace, came out during his illness, and approached and found Abu Bakr standing, leading the people in prayer. Abu Bakr began to go back, but the Messenger of Allah, may Allah bless him and grant him peace, indicated to him to stay where he was. The Messenger of Allah, may Allah bless him and grant him peace, sat by the side of Abu Bakr, and Abu Bakr prayed following the prayer of the Messenger of Allah, may Allah bless him and grant him peace, who was sitting, and the people prayed following the prayer of Abu Bakr.

Section: The Excellence of the Prayer of Someone Standing over the Prayer of Someone Sitting

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Book 8, Number 8.6.20:

> Yahya related to me from Malik from Ismail ibn Muhammad ibn Said ibn Abi Waqqas from a mawla of Amr ibn al-As or of Abdullah ibn Amr ibn al-As that the Messenger of Allah, may Allah bless him and grant him peace, said, "The prayer of one of you sitting down is only equal to half the prayer of one of you when he is standing."

Book 8, Number 8.6.21:

> Yahya related to me from Malik from Ibn Shihab that Abdullah ibn Amr ibn al As said, "When we arrived at Madina we were struck down by a severe epidemic which debilitated us greatly. The Messenger of Allah, may Allah bless him and grant him peace, came out to the people while they were praying nawafil prayers

sitting down. The Messenger of Allah, may Allah bless him and grant him peace, said, 'The prayer of the one sitting is equal to only half the prayer of the one standing.' "

Section: Praying Voluntary Prayers (Nawafil) Sitting

Book 8, Number 8.7.22:

Yahya related to me from Malik from Ibn Shihab from as-Sa'ib ibn Yazid from al Muttalib ibn Abi Wadaa as-Sahmi that Hafsa, the wife of the Prophet, may Allah bless him and grant him peace, said, "I never saw the Messenger of Allah, may Allah bless him and grant him peace, praying nawafil sitting, until a year before his death, when he began to pray them sitting. He would recite the sura with a measured slowness so that it would seem to be longer than other suras which were actually longer than it."

Book 8, Number 8.7.23:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, told him that she had never seen the Messenger of Allah, may Allah bless him and grant him peace, doing night prayers sitting down until he was getting on in years. He would recite sitting down until when he wanted to go into ruku, he would stand up and recite about thirty or forty ayats and then go into ruku.

Book 8, Number 8.7.24:

Yahya related to me from Malik from Abdullah ibn Yazid al-Madani and from Abu'n Nadr from Abu Salama ibn Abd ar-Rahman from A'isha, the wife of the Prophet, may Allah bless him and grant him peace, that the Messenger of Allah, may Allah bless him and grant him peace, used to pray sitting. He would recite sitting, and then, when about thirty or forty ayats of what he was reciting remained, he would stand up and recite standing and then go into ruku and sajda. He would do the same in the second raka.

Book 8, Number 8.7.25:

Yahya related to me from Malik that he had heard that Urwa ibn az-Zubayr and Said ibn al-Musayyab used to pray voluntary prayers sitting.

Section: The Middle Prayer

Book 8, Number 8.8.26:

Yahya related to me from Malik from Zayd ibn Aslam from al-Qaqa ibn Hakim that Abu Yunus, the mawla of A'isha, umm al-muminin said, "A'isha ordered me to write out a Qur'an for her. She said, 'When you reach this ayat, let me know, "Guard the prayers carefully and the middle prayer and stand obedient to Allah." ' When I reached it I told her, and she dictated to me, 'Guard the prayers carefully and the middle prayer and the asr prayer and stand obedient to Allah.' A'isha said, 'I heard it from the Messenger of Allah, may Allah bless him and grant him peace.' "

Book 8, Number 8.8.27:

Yahya related to me from Malik from Zayd ibn Aslam that Amr ibn Rafi said, "I was writing a Qur'an for Hafsa, umm al-muminin, and she said, 'When you reach this ayat, let me know, "Guard the prayers carefully and the middle prayer and stand obedient to Allah." When I reached it I told her and she dictated to me, 'Guard the prayers carefully and the middle prayer and the asr prayer and stand obedient to Allah.' "

Book 8, Number 8.8.28:

Yahya related to me from Malik from Da'ud ibn al-Husayn that Ibn Yarbu al-Makhzumi said, "I heard Zayd ibn Thabit say, 'The middle prayer is the prayer of dhuhr.' "

Book 8, Number 8.8.29:

Yahya related to me from Malik that he had heard that AIi ibn Abi Talib and Abdullah ibn Abbas used to say, "The middle prayer is the prayer of subh."

Malik said, "Out of all that I have heard about the matter, I prefer what Ali ibn Abi Talib and Abdullah ibn Abbas said."

Section: Permission to Pray in One Garment

Book 8, Number 8.9.30:

Yahya related to me from Malik from Hisham ibn Urwa from his father that Umar ibn Abi Salama saw the Messenger of Allah, may Allah bless him and grant him peace, praying in one garment in the house of Umm Salama. He was completely covered by it, and had put both ends over his shoulders.

Book 8, Number 8.9.31:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab from Abu Hurayra that some one asked the Messenger of Allah, may Allah bless him and grant him peace about praying in one garment. The Messenger of Allah, may Allah bless him and grant him peace, said, "Do you all have two garments?"

Book 8, Number 8.9.32:

Yahya related to me from Malik from Ibn Shihab that Said ibn al-Musayyab said that Abu Hurayra was asked, "May a man pray in one garment?" He said, "Yes." The man then said to him "Do you do that?" and he replied, "Yes, I pray in one garment while my clothes are on the clothes-rack."

Book 8, Number 8.9.33:

Yahya related to me from Malik that he had heard that Jabir ibn Abdullah used to pray in one garment.

Book 8, Number 8.9.34:

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman that Muhammad ibn Amr ibn Hazm used to pray in a single long shirt.

Book 8, Number 8.9.35:

Yahya related to me from Malik that he had heard from Jabir ibn Abdullah that the Messenger of Allah, may Allah bless him and grant him peace, said, "Let anyone who cannot find two garments pray in one garment and wrap himself in it, and if the garment is short, let him wrap it around his waist."

Malik said, "In my view it is preferable for someone who prays in a single shirt to put a garment or a turban over his shoulders."

Section: Permission for a Woman to Pray in a Shift and Head-Covering

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Book 8, Number 8.10.36:

Yahya related to me from Malik that he had heard that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, used to pray in a shift and head-covering.

Book 8, Number 8.10.37:

Yahya related to me from Malik from Muhammad ibn Zayd ibn Qunfudh that his mother asked Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, "What clothes can a woman wear in prayer?" She said, "She can pray in a shift that reaches down and covers the top of her feet."

Book 8, Number 8.10.38:

Yahya related to me from Malik from a reliable source from Bukayr ibn Abdullah ibn al-Ashajj from Busr ibn Said that when Ubaydullah ibn al-Aswad al-Khawlani was in the room of Maimuna, the wife of the Prophet, may Allah bless him and grant him peace, she used to pray in a shift and head-covering, without a waist-wrapper.

Book 8, Number 8.10.39:

Yahya related to me from Malik from Hisham ibn Urwa from his father that a woman asked him for a decision, saying, "Waist-wrappers are painful to me. Can I pray in a shift and head-covering?" He replied, "Yes, if the shift is long."

Translation of Malik's Muwatta, Book 9:

Shortening the Prayer

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Section: Joining Two Prayers when Settled and when Travelling

Book 9, Number 9.1.1:

Yahya related to me from Malik from Da'ud ibn al-Husayn from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, joined dhuhr and asr on his journey to Tabuk.

Book 9, Number 9.1.2:

Yahya related to me from Malik from Abu'z-Zubayr al-Makki from Abu't-Tufayl Amir ibn Wathila that Muadh ibn Jabal told him that they went out with the Messenger of Allah, may Allah bless him and grant him peace, in the year of Tabuk, and the Messenger of Allah, may Allah bless him and grant him peace, joined dhuhr with asr and maghrib with isha. Muadh said, "One day he delayed the prayer, and then came out and prayed dhuhr and asr together. Then he said, 'Tomorrow you will come, insha' llah, to the spring of Tabuk. But you will not get there until well into the morning. No one who arrives should touch any of its water until I come.' We came to it and two men had got to it before us and the spring was dripping with a little water. The Messenger of Allah, may Allah bless him and grant him peace, asked them, 'Have you touched any of its water?' They said, 'Yes.' The Messenger of Allah, may Allah bless him and grant him peace, reviled them and said what Allah wished him to say. Then they took water with their hands from the spring little by little until it had been collected in something. Then the Messenger of Allah, may Allah bless him and grant him peace, washed his face and hands in it. Then he put it back into the spring and the spring flowed with an abundance of water and the people drew water from it. The Messenger of Allah, may Allah bless him and grant him peace, said, 'If you live long enough, Muadh, you will soon see this place filled with gardens.' "

Book 9, Number 9.1.3:

3 Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "The Messenger of Allah, may Allah bless him and grant him peace, used to join maghrib and isha together when it was urgent to travel."

Book 9, Number 9.1.4:

Yahya related to me from Malik from Abu'z Zubayr al-Makki from Said ibn Jubayr that Abdullah ibn Abbas said, "The Messenger of Allah, may Allah bless him and grant him peace, prayed dhuhr and asr together and maghrib and isha together, and not out of fear nor because of travelling." Malik said, "I believe that was during rain."

Book 9, Number 9.1.5:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to join the prayer along with the amirs if they joined maghrib and isha in the rain.

Book 9, Number 9.1.6:

Yahya related to me from Malik from Ibn Shihab that he had asked Salim ibn Abdullah, "Can you join dhuhr and asr when travelling?" He said, "Yes, there is no harm in that. Haven't you seen the people pray on Arafa?"

Book 9, Number 9.1.7:

Yahya related to me from Malik that he had heard that AIi ibn Husain used to say, "The Messenger of Allah, may Allah bless him and grant him peace, would join dhuhr and asr if he wished to travel the same day, and he would join maghrib and isha if he wished to travel the same night."

Section: Shortening the Prayer in Travel

Book 9, Number 9.2.8:

Yahya related to me from Malik from Ibn Shihab from a man of the family of Khalid ibn Asid that he said to Abdullah ibn Umar, "Abu Abd ar-Rahman, we find the fear prayer and the prayer when settled mentioned in the Qur'an, but we do not find any mention of the travelling prayer in it." Ibn Umar said, "Son of my brother! Allah the Mighty and Majestic sent us Muhammad, may Allah bless him and grant him peace, and we know nothing. We only do as we saw him doing."

Book 9, Number 9.2.9:

Yahya related to me from Malik from Salih ibn Kaysan from Urwa ibn az-Zubayr that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "The prayer was prescribed as two rakas, both when settled and when travelling. Then the travelling prayer was kept as it was, and an increase was made in the prayer when settled. "

Book 9, Number 9.2.10:

Yahya related to me from Malik from Yahya ibn Said that he said to Salim ibn Abdullah, "What is the latest you have seen your father delay maghrib while on a journey?" and Salim replied, "One time the sun set when we were at Dhat al-Jaysh and he prayed maghrib at al-Aqiq."

Section: Circumstances in Which the Prayer Has To Be Shortened

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Book 9, Number 9.3.11:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar, shortened the prayer when he left for hajj or umra at Dhu'l Hulayfa.

Book 9, Number 9.3.12:

Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah that his father rode to Rim and shortened the prayer on the journey.

Malik said, "That was about four mail-stages." (approximately forty-eight miles).

Book 9, Number 9.3.13:

Yahya related to me from Malik from Nafi from Salim ibn Abdullah that Abdullah ibn Umar rode to Dhat an-Nusub and shortened the prayer on the journey.

Malik said, "There are four mail-stages between Dhat an-Nusub and Madina."

Book 9, Number 9.3.14:

Yahya related to me from Malik from Nafi from Ibn Umar that he used to travel to Khaybar and he would shorten the prayer.

Book 9, Number 9.3.15:

Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah that Abdullah ibn Umar used to shorten the prayer when he travelled for a whole day.

Book 9, Number 9.3.16:

Yahya related to me from Malik from Nafi that he used to travel one mail-stage with Ibn Umar, and he would not shorten the prayer.

Book 9, Number 9.3.17:

Yahya related to me from Malik that he had heard that Abdullah ibn Abbas used to shorten the prayer when he travelled a distance equivalent to that between Makka and Ta'if, and that between Makka and Usfan and that between Makka and Jedda.

Malik said, "That is four mail-stages, and to me that is the most preferable distance for shortening the prayer."

Malik said, "Someone who intends to travel does not shorten the prayer until he has left the houses of the village. And he does not do it in full until he comes to the first houses of the village, or is nearby."

Section: The Prayer of a Traveller when Undecided whether to Remain in a Place or Not

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Book 9, Number 9.4.18:

Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah that Abdullah ibn Umar used to say, "I pray the prayerof a traveller as long as I am undecided whether to remain somewhere or not, even if I am detained for twelve nights."

Book 9, Number 9.4.19:

Yahya related to me from Malik from Nafi that Ibn Umar stayed in Makka for ten nights, shortening the prayer, except when he prayed it behind an imam, in which case he followed the imam's prayer.

9.5 Doing the Full Prayer when One Decides to Remain in a Place

Section: Doing the Full Prayer when One Decides to Remain in a Place

Book 9, Number 9.5.20:

Yahya related to me from Malik from Ata al-Khurasani that he heard Said ibn al Musayyab say, "A traveller who has decided to remain somewhere for four nights does the prayer in full."

Malik said, "That is what I prefer most out of what I have heard."

Malik when asked about the prayer of a prisoner, said, "It is the same as the prayer of a person who remains in one place, except if he is travelling."

Section: The Prayer of a Traveller when Imam, or Behind an Imam

Book 9, Number 9.6.21:

Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah from his father that Umar ibn al-Khattab, when he went to Makka, used to lead them in prayer and do two rakas and then say, "People of Makka,complete the prayer, we are a group travelling."

Yahya related the same as that to me from Malik from Zayd ibn Aslam from his father from Umar ibn al-Khattab.

Book 9, Number 9.6.22:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to pray four rakas behind the imam at Mina, and when he prayed by himself he would pray two rakas.

Book 9, Number 9.6.23:

Yahya related to me from Malik from Ibn Shihab that Safwan said, "Abdullah ibn Umar used to come and visit Abdullah ibn Safwan and he would pray two rakas with us, and when he went away we would stand and complete the prayer."

Section: Voluntary Prayers while Travelling, by Day and at Night, and Praying on a Riding Beast

Book 9, Number 9.7.24:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar never used to pray anything with the fard prayer, either before it or after it, while travelling, except in the depths of the night. He would pray on the ground or on his mount, whichever way it was facing.

Book 9, Number 9.7.25:

Yahya related to me from Malik that he had heard that al-Qasim ibn Muhammad and Urwa ibn az-Zubayr and Abu Bakr ibn Abd ar Rahman used to pray nawafil when travelling.

Yahya said that Malik was asked about voluntary prayers when travelling and he said, "There is no harm in them, either at night or during the day. I have heard that

some of the people of knowledge used to do that."

Book 9, Number 9.7.26:

Yahya related to me that Malik said, "I have heard from Nafi that Abdullah ibn Umar used to see his son, Ubaydullah ibn Abdullah, doing voluntary prayers on a journey,and he would not disapprove of it."

Book 9, Number 9.7.27:

Yahya related to me from Malik from Amr ibn Yahya al-Mazini from Abu'l-Hubab Said ibn Yasar that Abdullah ibn Umar said, "I saw the Messenger of Allah, may Allah bless him and grant him peace, praying on a donkey while heading towards Khaybar."

Book 9, Number 9.7.28:

Yahya related to me from Malik from Abdullah ibn Dinar from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, used to pray on his mount while travelling, whichever way it was facing. Abdullah ibn Dinar said, "Abdullah ibn Umar would also do that."

Book 9, Number 9.7.29:

Yahya related to me from Malik that Yahya ibn Said said, "I saw Anas ibn Malik on a journey praying on a donkey facing away from the qibla. He did the raka and the sajda by motioning with his head, without putting his face on anything."

Section: The Prayer of Duha

Book 9, Number 9.8.30:

Yahya related to me from Malik from Musa ibn Maysara from Abu Murra, the mawla of Aqil ibn Abi Talib, that Umm Hani bint Abi Talib told him that in the year of the conquest the Messenger of Allah, may Allah bless him and grant him peace, prayed eight rakas, covering himself with one garment.

Book 9, Number 9.8.31:

Yahya related to me from Malik from Abu'n Nadr, the mawla of Umar ibn Ubaydullah, that Abu Murra, the mawla of Aqil ibn Abi Talib, told him that he had heard Umm Hani bint Abi Talib say, "I went to the Messenger of Allah, may Allah bless him and grant him peace, in the year of the conquest and found him doing ghusl while his daughter Fatima, was screening him with a garment. I said to him, 'Peace be upon you' and he said, 'Who is that?' I replied, 'Umm Hani bint Abi Talib,' and he said, 'Welcome, Umm Hani!' When he had finished his ghusl, he stood and prayed eight rakas, covering himself with one garment, and then came away. I said, 'Messenger of Allah, the son of my mother, AIi, says that he is determined to kill so-and-so, son of Hubayra, a man I have placed under my protection.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'We give protection to whoever you have given protection to, Umm Hani.' "

Umm Hani related that this incident happened in the morning.

Book 9, Number 9.8.32:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "I never once saw the Messenger of Allah, may Allah bless him and grant him peace, doing the voluntary prayer of duha, but I myself do it. Sometimes the Messenger of Allah, may Allah bless him and grant him peace, would refrain from a practice that he loved to do, fearing that people would do the same and it would become fard for them ."

Book 9, Number 9.8.33:

Yahya related to me from Malik from Zayd ibn Aslam from A'isha that she used to pray duha with eight rakas, and she would say, "I would never stop doing them even if my parents were to be brought back to life."

Section: General Remarks concerning the Voluntary Prayer of Duha

Book 9, Number 9.9.34:

Yahya related to me from Malik from Ishaq ibn Abdullah ibn Abi Talha from Anas ibn Malik that his grandmother, Mulayka, invited the Messenger of Allah, may Allah bless him and grant him peace, for food and he ate some of it. Then the Messenger of Allah, may Allah bless him and grant him peace, said, "Get up and I will lead you in prayer."

Anas said, "I stood up and took a woven mat belonging to us that had become black through long use and sprinkled it with water, and the Messengerof Allah, may Allah bless him and grant him peace, stood on it. The orphan and I formed a row behind him, and the old woman stood behind us. He prayed two rakas with us and then left."

Book 9, Number 9.9.35:

Yahya related to me from Malik from Ibn Shihab that Ubaydullah ibn Abdullah ibn Utba said, "I visited Umar ibn al-Khattab just before noon and found him praying a voluntary prayer. So I stood behind him, but he pulled me nearer and put me next to him, on his right hand side, and then Yarfa came and I moved back and we formed a row behind him."

Section: Warning against Passing in Front of Someone Praying

Book 9, Number 9.10.36:

Yahya related to me from Malik from Zayd ibn Aslam from Abd ar-Rahman ibn Abi Said al-Khudri from his father that the Messenger of Allah, may Allah bless him and grant him peace, said, "Do not let anyone pass in front of you when you are praying. Repel him as much as you can, and, if he refuses, fight him, for he is only a shaytan."

Book 9, Number 9.10.37:

Yahya related to me from Malik from Abu'n Nadr, the mawla of Umar ibn

Ubaydullah from Busr ibn Said that Zayd ibn Khalid al-Juhani sent him to Abu Juhaym to ask him what he had heard from the Messenger of Allah, may Allah bless him and grant him peace, about passing in front of someone praying. Abu Juhaym said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'If the one who passes in front of a man praying knew what he was bringing upon himself it would be better for him to stop for forty than to pass in front of him.' "

Abu'n-Nadr said, "I do not know whether he said forty days or months or years."

Book 9, Number 9.10.38:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that Kab al-Ahbar said, "If the person who passed in front of a man praying knew what he was bringing on himself, it would be better for him to sink into the ground than to pass in front of him."

Book 9, Number 9.10.39:

Yahya related to me from Malik that he had heard that Abdullah ibn Umar used to disapprove of passing in front of women while they were praying.

Book 9, Number 9.10.40:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar would neither pass in front of anyone, nor let anyone pass in front of him.

Section: Permission to Pass in Front of Someone Praying

Book 9, Number 9.11.41:

Yahya related to me from Malik from Ibn Shihab from Ubaydullah ibn Abdullah ibn Utba ibn Masud that Abdullah ibn Abbas said, "I approached, riding on a donkey, while the Messenger of Allah, may Allah bless him and grant him peace, was leading the people in prayer at Mina, and I was, at that time, nearing puberty. I passed in front of part of the row, dismounted, sent the donkey off to graze, and then joined the row, and no one rebuked me for doing so."

Book 9, Number 9.11.42:

Yahya related to me from Malik that he had heard that Said ibn Abi Waqqas used to pass in front of some of the rows while the prayer was in progress.

Malik said, "I consider that it is permissible to do that if the iqama for the prayer has been said and the imam has said the initial takbir and a man cannot find any way into the mosque except by going between the rows."

Book 9, Number 9.11.43:

Yahya related to me from Malik that he had heard that Ali ibn Abi Talib said, "Things that pass in front of a man praying do not break his prayer."

Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah that Abdullah ibn Umar used to say, "Things that pass in front of a man praying do not

break his prayer."

Section: The Sutra of a Man Praying on a Journey

Book 9, Number 9.12.44:

Yahya related to me from Malik that he had heard that Abdullah ibn Umar would use the animal he was riding as a sutra when he prayed.

Yahya related to me from Malik from Hisham ibn Urwa that his father used to pray in the desert without a sutra.

Section: Brushing Away Small Stones in the Prayer

Book 9, Number 9.13.45:

Yahya related to me from Malik that Abu Jafar al-Qari said, "I saw Abdullah ibn Umar quickly brush away the small stones from the place where he was going to put his forehead as he was going down into sajda."

Book 9, Number 9.13.46:

Yahya related to me from Malik from Yahya ibn Said that he had heard that Abu Dharr used to say, "Brush away the small stones with one sweep, but if you leave them it is better than a red camel."

Section: Straightening the Rows

Book 9, Number 9.14.47:

Yahya related to me from Malik from Nafi that Umar ibn al-Khattab used to order the rows to be straightened, and when they had come to him and told him that the rows were straight he would say the takbir.

Book 9, Number 9.14.48:

Yahya related to me from Malik from his paternal uncle, Abu Suhayl ibn Malik, that his father said, "I was with Uthman ibn Affan when the iqama was said for the prayer and I was talking to him about being assigned a definite allowance by him. I continued talking to him while he was levelling some small stones with his sandals, and then some men that he had entrusted to straighten the rows came and told him that the rows were straight. He said to me, 'Line up in the row,' and then he said the takbir."

Section: Placing One Hand on the Other in the Prayer

Book 9, Number 9.15.49:

Yahya related to me from Malik that Abd al-Karim ibn Abi'l-Mukhariq al-Basri said, "Among things the Prophet, may Allah bless him and grant him peace, said and did are: 'As long as you do not feel ashamed, do whatever you wish', the placing of one hand on the other in prayer (one places the right hand on the left), being quick to break the fast, and delaying the meal before dawn."

Book 9, Number 9.15.50:

Yahya related to me from Malik from Abu Hazim ibn Dinar that Sahl ibn Sad said, "People used to be ordered to place their right hands on their left forearms in the prayer."

Abu Hazim added, "I know for sure that Sahl traces that back to the Prophet, may Allah bless him and grant him peace."

Section: Qunut in the Subh Prayer

Book 9, Number 9.16.51:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar did not say qunut in any of the prayers.

Section: Prohibition against a Man Praying when Wishing to Relieve Himself

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Book 9, Number 9.17.52:

Yahya related to me from Malik from Hisham ibn Urwa from his father that Abdullah ibn al-Arqam used to lead his companions in prayer. The time for prayer came one day and he went to relieve himself. When he returned, he said, "I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'If you wish to defecate, you should do so before the prayer.' "

Book 9, Number 9.17.53:

Yahya related to me from Malik from Zayd ibn Aslam that Umar ibn al-Khattab said, "You should not pray while you are holding your bowels."

Section: Waiting for The Prayer and Walking to It

Book 9, Number 9.18.54:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "The angels ask for blessings on each one of you as long as he is in the place where he has prayed and has not discharged anything. They say, 'Allah, forgive him. Allah have mercy on him.' "

Malik said, "I do not consider that his words, 'has not discharged anything' refer to anything other than the discharges that break wudu."

Book 9, Number 9.18.55:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "You are in prayer as long as the prayer detains you and there is nothing that prevents you from returning to your family except the prayer."

Book 9, Number 9.18.56:

Yahya related to me from Malik from Sumayy, the mawla of Abu Bakr, that Abu

Bakr ibn Abd ar-Rahman used to say, "Someone who goes to the mosque in the morning or the afternoon with no intention of going anywhere else, either to learn good or teach it, is like someone who does jihad in the way of Allah and returns with booty."

Book 9, Number 9.18.57:

Yahya related to me from Malik from Nuaym ibn Abdullah al-Mujmir that he heard Abu Hurayra say, "If any one of you prays and then sits down in the spot where he has prayed, the angels ask blessings on him saying, 'Allah, forgive him. Allah, have mercy on him.' And if he moves from the spot where he has prayed and sits elsewhere in the mosque waiting for the prayer, he remains in prayer until he prays."

Book 9, Number 9.18.58:

Yahya related to me from Malik from al Ala ibn Abd ar-Rahman ibn Yaqub from his father from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Shall I tell you the things by which Allah erases wrong actions and by which he raises ranks: the complete and correct performance of wudu in adverse conditions, a great number of steps towards the mosque,and waiting after one prayer for the next prayer. That is the firm hold, that is the firm hold, that is the firm hold."

Book 9, Number 9.18.59:

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab said, "It is said that no-one except a hypocrite leaves the mosque after the call to prayer, except for someone who intends to return."

Book 9, Number 9.18.60:

Yahya related to me from Malik from Amir ibn Abdullah ibn az-Zubayr from Amr ibn Sulaymaz-Zuraqi from Abu Qatadaal-Ansari that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you enter the mosque, you should pray two rakas before you sit down."

Book 9, Number 9.18.61:

Yahya related to me from Malik from Abu'nNadr, the mawla of Umar ibn Ubaydullah, that Abu Salama ibn Abd ar-Rahman asked him, "Didn't I see your master sit down before praying after he had entered the mosque?"

Abu'n-Nadr said, "By that he meant Umar ibn Ubaydullah, and he was finding fault with him for sitting down before praying after he had come into the mosque."

Yahya said that Malik said, "It is good to do that but not obligatory."

Section: Placing the Hands Flat on the Surface by the Face when Prostrating

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Book 9, Number 9.19.62:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to place his

palms flat on the surface where he put his forehead. Nafi said, "I have seen him take his hands out from under his burnus on a very cold day and place them on the ground."

Book 9, Number 9.19.63:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "When one of you puts his forehead on the ground he should put his palms on the place where he puts his forehead. Then, when he rises, he should raise them, for the hands prostrate just as the face prostrates."

Section: Turning and Clapping when Necessary during the Prayer

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Book 9, Number 9.20.64:

Yahya related to me from Malik from Abu Hazim Salama ibn Dinar from Sahl ibn Said as-Saidi that the Messenger of Allah, may Allah bless him and grant him peace, went to the tribe of Bani Amr ibn Awf to settle their disputes .The time for the prayer came and the muadhdhin came to Abu Bakr as-Siddiq and said, "Could you lead the people in prayer and I will say the iqama?" He said, "Yes," and Abu Bakr prayed. The Messenger of Allah, may Allah bless him and grant him peace, came back while the people were praying, and approached and joined the row. People clapped, but Abu Bakr did not turn round. The people increased their clapping, and Abu Bakr turned round and saw the Messenger of Allah, may Allah bless him and grant him peace, and the Messenger of Allah, may Allah bless him and grant him peace, indicated to him to stay in his place. Abu Bakr raised his hands and praised Allah that the Messenger of Allah, may Allah bless him and grant him peace, had told him to do that. Then he drew back until he was in the row, and the Messenger of Allah, may Allah bless him and grant him peace, stepped forward and led the prayer. When he had finished he said, "Abu Bakr, what stopped you from staying put like I told you?" Abu Bakr said, "It is not for Ibn Abi Quhafa to pray in front of the Messenger of Allah, may Allah bless him and grant him peace."

The Messenger of Allah, may Allah bless him and grant him peace, said, "Why did I see you all clapping so much? If something happens to you in the prayer you should say 'Subhana-llah' (Glory be to Allah), and when you say 'Subhana-llah' you will be heard. Clapping is only for women."

Book 9, Number 9.20.65:

Yahya related to me from Malik from Nafi that Ibn Umar would never turn around when praying.

Book 9, Number 9.20.66:

Yahya related to me from Malik that Abu Jafar al-Qari said, "I was praying, and Abdullah ibn Umar was behind me and I was not aware of it. Then I turned round and he prodded me (in disapproval)."

Section: What to Do when Entering while the Imam is in Ruku

Book 9, Number 9.21.67:

Yahya related to me from Malik from Ibn Shihab that Abu Umama ibn Sahl ibn

Hunayf said, "Zayd ibn Thabit entered the mosque and found the people in ruku, so he went into ruku and then moved slowly forward until he reached the row."

Book 9, Number 9.21.68:

Yahya related to me from Malik that he had heard that Abdullah ibn Masud used to move forward while in ruku.

Section: Prayer on the Prophet, may Allah Bless Him and Grant Him Peace

Book 9, Number 9.22.69:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Hazim from his father that Amr ibn Sulaym az-Zuraqi said, "Abu Humayd as-Saidi told me that they asked the Messenger of Allah, may Allah bless him and grant him peace, how they were to ask for blessings upon him and he replied that they should say, 'O Allah, bless Muhammad and his wives and his descendants asYou blessed the family of Ibrahim, and give baraka to Muhammad and his wives and his descendants as You gave baraka to the family of Ibrahim. You are worthy of Praise and Glorious.'"

Allahumma salli ala Muhammad wa azwajihi wa alihi kama sallaita ala ali Ibrahim, wa barakaala Muhammad wa azwajihi wa alihi kama baraktaalaali Ibrahim, innaka Hamidu'm - Majid.

Book 9, Number 9.22.70:

Yahya related to me from Malik from Nuaym ibn Abdullah al-Mujmirthat Muhammad ibn Abdullah ibn Zayd told him that Abu Masud al Ansari said, "The Messenger of Allah, may Allah bless him and grant him peace, came to us at the gathering of Sad ibn Ubada. Bashir ibn Sad said to him, 'Allah has ordered us to ask for blessings on you, Messenger of Allah. How should we do it?' The Messenger of Allah, may Allah bless him and grant him peace, remained silent until we wished we had not asked him. Then he told us to say, 'O Allah, bless Muhammad and the family of Muhammad as You blessed Ibrahim, and give baraka to Muhammad and the family of Muhammad as You gave baraka to the family of Ibrahim. In all the worlds You are worthy of Praise and Glorious,' and then give the taslim as you have learnt."

Allahumma salli ala Muhammad wa ali Muhammad kama sallaita Ibrahim, wa baraka ala Muhammad wa ali Muhammad kama baraktaala ali Ibrahim. Fi'l alamin, innaka Hamidu'm - Majid.

Book 9, Number 9.22.71:

Yahya related to me from Malik that Abdullah ibn Dinar said, "I saw Abdullah ibn Umar stop by the grave of the Prophet, may Allah bless him and grant him peace, and ask for blessings on the Prophet, may Allah bless him and grant him peace, and on Abu Bakr and Umar."

Section: How to Do the Prayer in General

Book 9, Number 9.23.72:

Yahya related to me from Malik from Nafi from Ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, used to pray two rakas before dhuhr and two rakas after it, two rakas after maghrib, in his house, and two rakas after isha. He did not pray after jumua until he had left, and then he prayed two rakas.

Book 9, Number 9.23.73:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Do you see the direction I am facing here? By Allah, neither your concentration nor your ruku is hidden from me. I can see you behind my back."

Book 9, Number 9.23.74:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that when the Messenger of Allah, may Allah bless him and grant him peace, used to go to Quba (to pray), he would walk as well as ride.

Book 9, Number 9.23.75:

Yahya related to me from Malik from Yahya ibn Said from an-Numan ibn Murra that the Messenger of Allah, may Allah bless him and grant him peace, said,"What about drunkenness, stealing and adultery? "That was before anything had been revealed about them. They said, "Allah and His Messenger know best." He said, "They are excesses and in them is a punishment. And the worst of thieves is the one who steals his prayer." They said, "How does he steal his prayer, Messenger of Allah?" He replied, "He does not do ruku or sajda properly."

Book 9, Number 9.23.76:

Yahya related to me from Malik from Hisham ibn Urwa from his father that the Messenger of Allah, may Allah bless him and grant him peace, said, "Do some of the prayers in your houses."

Book 9, Number 9.23.77:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "When a sick man is unable to prostrate he should motion with his head, and not raise anything to his forehead."

Book 9, Number 9.23.78:

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman that if Abdullah ibn Umar arrived at the mosque and the people had already prayed, he would begin with the obligatory prayer and not pray anything before it.

Book 9, Number 9.23.79:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar passed by a man who was praying and said, "Peace be upon you," and the man replied to him. Abdullah ibn Umar returned to him and said, "When someone says, 'Peace be upon you' to you while you are praying do not reply, but give a signal with your hand."

Book 9, Number 9.23.80:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "Someone who only remembers that he has forgotten a prayer when he is praying the next prayer behind an imam, should pray the prayer he has forgotten after the imam has said the taslim, and then pray the other one again."

Book 9, Number 9.23.81:

Yahya related to me from Malik from Yahya ibn Said from Muhammad ibn Yahya ibn Habban that his paternal uncle Wasi ibn Habban said, "I was praying, and Abdullah ibn Umar was resting his back on the wall of the qibla. When I had finished the prayer I turned towards him on my left hand side. Abdullah ibn Umar said, 'What stopped you from turning away to your right?' I replied, 'I saw you and turned towards you.' Abdullah said, 'You have spoken correctly. People say that you should turn away to your right, but when you pray, you can turn whichever way you wish. If you like, to your right, and if you like, to your left.' "

Book 9, Number 9.23.82:

Yahya related to me from Malik from Hisham ibn Urwa from his father that one of the muhajirun in whom he saw no harm asked Abdullah ibn Amr ibn al-As, "Can I pray in a place where camels are watered?" Abdullah replied, "No, but you can pray in a sheep-pen."

Book 9, Number 9.23.83:

Yahya related to me from Malik from Ibn Shihab that Said ibn al-Musayyab said, "Which prayer is it when you remain in the sitting position in every raka?" Said said, "It is maghrib when you miss one raka, and that is the sunna in all the prayers."

Section: Prayer in General

Book 9, Number 9.24.84:

Yahya related to me from Malik from Amir ibn Abdullah ibn az-Zubayr from Amr ibn Sulaym az-Zuraqi from Abu Qutada al-Ansari that the Messenger of Allah, may Allah bless him and grant him peace, used to pray carrying Umama, who was the daughter of his daughter Zaynab by Abu'l As ibn Rabia ibn Abd Shams. When he prostrated, he put her down, and when he got up he carried her.

Book 9, Number 9.24.85:

Yahya related to me from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "A group of angels in the night and a group of angels in the day alternate with each other among you, and gather together at the time of the asr and fajr prayers. Then those that have spent the night among you ascend, and He asks them, and He knows best, 'How did you leave my slaves?' and they say, 'When we left them they were praying, and when we came to them they were praying.' "

Book 9, Number 9.24.86:

Yahya related to me from Malik from Hisham ibn Urwa from his father from A'isha, the wife of the Prophet, may Allah bless him and grant him peace, that the Messenger of Allah, may Allah bless him and grant him peace, said, "Tell Abu Bakr to lead the people in prayer." A'isha said, "Messenger of Allah, when Abu Bakr stands in your place his voice does not reach the ears of the people because of his weeping, so tell Umar to lead the people in prayer." He said, "Tell Abu Bakr to lead the people in prayer." A'isha continued, "I told Hafsa to tell him that when Abu Bakr stood in his place his voice did not reach the ears of the people because of his weeping, and that he should tell Umar to lead the people in prayer. Hafsa did so, and the Messenger of Allah, may Allah bless him and grant him peace, said, 'You are the companions of Yusuf! (referring to the women who cut their hands when they saw the beauty of Yusuf). Tell Abu Bakr to lead the people in prayer!' "

A'isha added that Hafsa said to her, "I have never had anything good from you!"

Book 9, Number 9.24.87:

Yahya related to me from Malik from Ibn Shihab from Ata ibn Yazid al-Laythi that Ubaydullah ibn Adi ibnal-Khiyar said, "Once when the Messenger of Allah, may Allah bless him and grant him peace, was sitting with some people, a man came to him and spoke secretly to him. Nobody knew what he had said until the Messenger of Allah, may Allah bless him and grant him peace, disclosed that he had asked for permission to kill one of the hypocrites. When he disclosed this, the Messenger of Allah, may Allah bless him and grant him peace, said, 'Doesn't he testify that there is no god but Allah and that Muhammad is the Messenger of Allah?' The man replied, 'Of course, but he hasn't really done so.' He said, 'Doesn't he do the prayer?' and the man replied, 'Of course, but he doesn't really do the prayer.' He said, may Allah bless him and grant him peace, 'Those are the ones whom Allah has forbidden me (to kill).' "

Book 9, Number 9.24.88:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, said, "O Allah! Do not make my grave an idol that is worshipped. The anger on those who took the graves of their Prophets as places of prostration was terrible."

Book 9, Number 9.24.89:

Yahya related to me from Malik from Ibn Shihab from Mahmud ibn Rabi al-Ansari that Utban ibn Malik, who was a blind man, used to lead his people in prayer, and he said to the Messenger of Allah, may Allah bless him and grant him peace, "Sometimes it is dark and rainy and there is a lot of water around outside, and I am a man who has lost his sight. Messenger of Allah, pray in a certain place in my house so that I can take it as a place to pray." The Messenger of Allah, may Allah bless him and grant him peace, came to him and said, "Where would you like me to pray?" He indicated a place to him and the Messengerof Allah, may Allah bless him and grant him peace, prayed there.

Book 9, Number 9.24.90:

Yahya related to me from Malik from Ibn Shihab from Abbad ibn Tamim from his

paternal uncle that he saw the Messenger of Allah, may Allah bless him and grant him peace, lying down in the mosque with one foot on top of the other.

Yahya related to me from Malik from Ibn Shihab from Said ihn al-Musayyab that Umar ibn al Khattab and Uthman ibn Affan, may Allah be pleased with them, used to do the same.

Book 9, Number 9.24.91:

Yahya related to me from Malik from Yahya ibn Said that Abdullah ibn Masud said to a certain man, "You are in a time when men of understanding (fuqaha) are many and Qur'an reciters are few, when the limits of behaviour defined in the Qur'an are guarded and its letters are lost, when few people ask and many give, when they make the prayer long and the khutba short, and put their actions before their desires. A time will come upon men when their fuqaha are few but their Qur'an reciters are many, when the letters of the Qur'an are guarded carefully but its limits are lost, when many ask but few give, when they make the khutba long but the prayer short, and put their desires before their actions."

Book 9, Number 9.24.92a:

Yahya related to me from Malik that Yahya ibn Said said, "I have heard that the first of the actions of a slave to be considered on the day of rising is the prayer. If it is accepted from him, the rest of his actions will be considered, and if it is not accepted from him, none of his actions will be considered."

Book 9, Number 9.24.92b:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "The actions which the Messenger of Allah, may Allah bless him and grant him peace, loved most were those which were done most constantly."

Book 9, Number 9.24.94:

Yahya related to me from Malik that he had heard from Amir ibn Sad ibn Abi Waqqas that his father said, "There were two brothers, one of whom died forty nights before the other. The merit of the first was being mentioned in the presence of the Messenger of Allah, may Allah bless him and grant him peace, and he said, 'Wasn't the other one a muslim?' They said, 'Of course, Messenger of Allah, and there was no harm in him.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'What will make you realise what his prayer has brought him. The prayer is like a deep river of sweet water running by your door into which you plunge five times a day. How much of your dirtiness do you think that will leave? You do not realise what his prayer has brought him.' "

Book 9, Number 9.24.95:

Yahya related to me from Malik that he had heard that if some one passed by Ata ibn Yasar in the mosque with something to trade, he would call him and ask, "What is the matter with you? What do you want?" If the man said that he wished to trade with him, he would say, "You need the market of this world. This is the market of the next world."

Book 9, Number 9.24.96:

Yahya related to me from Malik that he had heard that Umar ibn al-Khattab set aside an area near the mosque called al-Butayha and said, "Whoever wishes to talk nonsense or recite poetry or raise his voice should go to that area."

Section: Stimulation of the Desire for Prayer in General

Book 9, Number 9.25.97:

Yahya related to me from Malik from his paternal uncle Abu Suhayl ibn Malik that his father heard Talha ibn Ubaydullah say, "Once one of the people of Najd came to the Messenger of Allah, may Allah bless him and grant him peace. He had dishevelled hair and although his voice could be heard we could not make out what he was saying until he drew nearer and then we found he was asking about Islam. The Messenger of Allah, may Allah bless him and grant him peace, said to him, 'There are five prayers during the day and the night.' He said, 'Do I have to do anything else besides that?' The Messenger of Allah, may Allah bless him and grant him peace, added, 'And fasting the month of Ramadan.' He said, 'Is there anything else I have to do?' He said, 'No, except what you do of your own accord.' The Messenger of Allah, may Allah bless him and grant him peace, mentioned zakat. The man said, 'Is there anything else that I have to do?' He said, 'No, except what you do of your own accord.'

He continued, "The man went away saying, 'By Allah, I won't do any more than this, nor will I do any less.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'That man will be successful, if he is telling the truth.'

Book 9, Number 9.25.98:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Shaytan ties three knots at the back of your head when you sleep, and he seals the place of each knot with 'You have a long night ahead, so sleep.' If you wake up and remember Allah, a knot is untied. If you do wudu, a knot is untied. If you pray, a knot is untied, and morning finds you lively and in good spirits, and if not, morning finds you in bad spirits and lazy."

The Two 'Ids

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Section: The Ghusl of the Two Ids, the Call to Prayer for Them, and the Iqama

Book 10, Number 10.1.1:

Yahya related to me from Malik that he had heard more than one of their men of knowledge say, "There has been no call to prayer or iqama for the id al-Fitr or the id al-Adha since the time of the Messenger of Allah, may Allah bless him and grant him peace."

Malik said, "That is the sunna about which there is no disagreement among us."

Book 10, Number 10.1.2:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to do ghusl on the day of Fitr before going to the place of prayer.

Section: The Order to Pray Before the Khutba on the Two Ids

Book 10, Number 10.2.3:

Yahya related to me from Malik from Ibn Shihab that the Messenger of Allah, may Allah bless him and grant him peace, used to pray on the day of Fitr and the day of Adha before the khutba.

Book 10, Number 10.2.4:

Yahya related to me from Malik that he had heard that Abu Bakr and Umar used to do that.

Book 10, Number 10.2.5:

Yahya related to me from Malik from Ibn Shihab that Abu Ubayd, the mawla of Ibn Azhar said, "I was present at an id with Umar ibn al-Khattab. He prayed, and then after he had prayed he gave a khutba to the people and said, 'The Messenger of Allah, may Allah bless him and grant him peace, forbade fasting on these two days - the day you break your fast (after Ramadan), and the day you eat from your sacrifice (after Hajj) .' "

Abu Ubaydcontinued,"Then I was present at an id with Uthman ibn Affan. He came and prayed, and when he had finished he gave a khutba and said, 'Two ids have been joined together for you on this day of yours. If any of the people of al-Aliyya (the hills outlying Madina) want to wait for the jumua they can do so, and if any of them want to return, I have given them permission.' Abu Ubayd continued, "Then I was present at an id with AIi ibn Abi Talib (at the time when Uthman was being detained). He came and prayed, and then after he had prayed he gave a khutba."

Section: The Order to Eat Before Going Out on the Morning of the Id

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Book 10, Number 10.3.6:

> Yahya related to me from Malik from Hisham ibn Urwa from his father that he used to eat on the day of the id al-Fitr before going out.

Book 10, Number 10.3.7:

> Yahya related to me from Malik from Ibn Shihab that Said al-Musayyab told him that people used to be told to eat on the day of Fitr before setting out. Malik said that he did not consider that people had to do that for Adha.

Section: The Takbir and the Recitation in the Prayer of the Two Ids

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Book 10, Number 10.4.8:

> Yahya related to me from Malik from Damra ibn Said al-Mazini from Ubaydullah ibn Abdullah ibn Utba ibn Masud that Umar ibn al-Khattab asked Abu Waqid al-Laythi what the Messenger of Allah, may Allah bless him and grant him peace, used to recite in the prayers of Adha and Fitr. He said, "He used to recite Qaf (Sura 50) and al-lnshiqaq (Sura84)."

Book 10, Number 10.4.9:

> Yahya related to me from Malik that Nafi, the mawla of Abdullah ibn Umar said, "I was at Adha and Fitr with Abu Hurayra and he said 'Allah is greater' seven times in the first raka, before the recitation, and five times in the second, before the recitation."

Section: Refraining from Prayer Before and After the Two Id Prayers

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Book 10, Number 10.5.10:

> Yahya related to me from Malik from Nafi that Abdullah ibn Umar did not pray either before the prayer or after it on the day of Fitr.

Book 10, Number 10.5.11:

> Yahya related to me from Malik that he had heard that Said ibn al-Musayyab used to go to the place of prayer after praying subh, and before the sun rose.

Section: Permission to Pray Before and After the Two Id Prayers

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Book 10, Number 10.6.12:

> Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim that his father used to pray four rakas before he went to the place of prayer.

Book 10, Number 10.6.13:

> Yahya related to me from Hisham ibn Urwa that his father used to pray on the day of Fitr before the prayer in the mosque.

Section: The Coming of the Imam on the Day of the Id and Waiting for the Khutba

Book 10, Number 10.7.14:

Yahya related to me that Malik said, "The sunna concerning the time of prayer on the ids of Fitr and Adha - and there is no disagreement amongst us about it - is that the imam leaves his house and as soon as he has reached the place of prayer the prayer falls due."

Yahya said that Malik was asked whether a man who prayed with the imam could leave before the khutba, and he said, "He should not leave until the imam leaves."

Translation of Malik's Muwatta, Book 11:

The Fear Prayer

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Section: The Fear Prayer

Book 11, Number 11.1.1:

Yahya related to me from Malik from Yazid ibn Ruman from Salih ibn Khawwat from someone who had prayed (the prayer of fear) with the Messenger of Allah, may Allah bless him and grant him peace, on the day of Dhat ar-Riqa that one group had formed a row with him and one group had formed a row opposite the enemy. He then prayed one raka with the group he was with, and then remained standing while they finished by themselves. They then left and formed a row opposite the enemy, and then the other group came and he prayed the remaining raka of his prayer with them, and then remained sitting while they finished by themselves. Then he said the taslim with them.

Book 11, Number 11.1.2:

Yahya related to me from Malik from Yahya ibn Said from al-Qasim ibn Muhammad from Salih ibn Khawwat that Sahl ibn Abi Hathma related to him that the form of the prayer of fear was that the imam stood with a group of his companions, while another group faced the enemy. The imam prayed one raka with them, including the prostration, and then stood. He remained standing while they completed the remaining raka by themselves. They then said the taslim, left, and formed up opposite the enemy while the imam remained standing. Then the others who had not prayed came forward and said the takbir behind the imam and he prayed one raka with them, including the prostration. He then said the taslim, while they stood up and prayed the remaining raka by themselves. Then they said the taslim.

Book 11, Number 11.1.3:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar, when asked about the fear prayer said, "The imam and a group of people go forward and the imam prays a raka with them, while another group, who have not yet prayed, position themselves between him and the enemy. When those who are with him have prayed a raka they draw back to where those who have not prayed are, and do not say the taslim. Then those who have not prayed come forward and pray a raka with him. Then the imam leaves, as he has now prayed two rakas. Everyone else in the two groups stands and prays a raka by himself after the imam has left. In this way each of the two groups will have prayed two rakas. If the fear is greater than that, then the men pray standing on their feet or mounted, either facing the qibla or otherwise."

Malik said that Nafi said, "I do not believe that Abdullah ibn Umar related it from anyone other than the Messenger of Allah, may Allah bless him and grant him peace."

Book 11, Number 11.1.4:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab said, "The Messenger of Allah, may Allah bless him and grant him peace, did not pray dhuhr and asr on the day of the Trench until after the sun had set."

Malik said, "The hadith of al-Qasim ibn Muhammad from Salih ibn Khawwat is the one I like most out of what I have heard about the fear prayer."

[Translation of Malik's Muwatta, Book 12:](#)

The Eclipse Prayer

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Section: How to Pray the Eclipse Prayer

Book 12, Number 12.1.1:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "There was an eclipse of the sun in the time of the Messenger of Allah, may Allah bless him and grant him peace, and the Messenger of Allah, may Allah bless him and grant him peace, led the people in prayer. He stood, and did so for a long time. Then he went into ruku, and made the ruku long. Then he stood again, and did so for a long time, though not as long as the first time. Then he went into ruku, and made the ruku long, though not as long as thefirst time. Then he rose, and went down into sajda. He then did the same in the second raka, and by the time he had finished the sun had appeared. He then gave a khutba to the people, in which he praised Allah and then said, 'The sun and the moon are two of Allah's signs. They do not eclipse for anyone's death nor for anyone's life. When you see an eclipse, call on Allah and say, "Allah is greater" and give sadaqa.' Then he said, 'O community of Muhammad! ByAllah, there is no-one more jealous than Allah of a male or female slave of his who commits adultery. O community of Muhammad! By Allah, if you knew what I knew, you would laugh little and weep much'."

Book 12, Number 12.1.2:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that Abdullah ibn Abbas said, "There was an eclipse of the sun and the Messenger of Allah, may Allah bless him and grant him peace, prayed, and the people prayed with him. He stood for a long time, nearly as long as (it takes to recite) Surat al-Baqara (Sura 2), and then went into ruku for a long time. Then he rose and stood for a long time, though less than the first time.Then he went into ruku for a long time, though less than the first time. Then he went down into sajda. Then he stood for a long time, though less than the first time. Then he went into ruku for a long time, though less than the first time. Then he rose and stood for a long time, though less than the firsttime. Then he went into ruku for a long time, though less than the first time. Then he went down into sajda, and by the time he had finished the sun had appeared. Then he said, 'The sun and the moon are two of Allah's signs. They do not eclipse for anyone's death nor for anyone's life. When you see an eclipse, remember Allah.' They said, 'Messenger of Allah, we saw you reach out for something while you were standing here and then we saw you withdraw.' He said, 'I saw the Garden and I reached out for a bunch of grapes from it, and if I had taken it you would have been able to eat from it for as long as this world lasted. Then I saw the Fire - and I have never seen anything more hideous than what I saw today - and I saw that most of its people were women.' They said, 'Why, Messenger of Allah?' He said, 'Because of their ungratefulness (kufr).' Someone said, 'Are they ungrateful toAllah?' He said, 'They are ungrateful to their husbands and they are ungrateful for good behaviour (towards them) . Even if you were to behave well towards one of

them for a whole lifetime and then she were to see you do something (that she did not like) she would say that she had never seen anything good from you.' "

Book 12, Number 12.1.3:

Yahya related to me from Malik from Yahya ibn Said from 'Amra bint Abd ar-Rahman from A'isha, the wife of the Prophet, may Allah bless him and grant him peace, that a jewish woman came to beg from her and said, "May Allah give you refuge from the punishment of the grave." So A'isha asked the Messenger of Allah, may Allah bless him and grant him peace, "Are people punished in their graves?", and the Messenger of Allah, may Allah bless him and grant him peace, took refuge in Allah from that. Then one morning the Messenger of Allah, may Allah bless him and grant him peace, went out on a journey and there was an eclipse of the sun, and he returned in the late morning and passed through his apartments. Then he stood and prayed, and the people stood behind him. He stood for a long time, and then went into ruku for a long time. Then he rose and stood for a long time, though less than the first time, and then went into ruku for a long time, though less than the first time. Then he rose, and went down into sajda. Then he stood for a long time, though less than the time before, and then went into ruku for a long time, though less than the time before. Then he rose and stood for a long time, though less than the time before, and then went into ruku for a long time, though less than the time before. Then he rose, and went down into sajda. When he had finished he said what Allah willed him to say, and then he told them to seek protection for themselves from the punishment of the grave."

Section: About the Eclipse Prayer

Book 12, Number 12.2.4:

Yahya related to me from Malik from Hisham ibn Urwa from Fatima bint al Mundhir that Asma bint Abi Bakr as-Siddiq said, "I went to A'isha, the wife of the Prophet, may Allah bless him and grant him peace, during an eclipse of the sun, and everybody was standing in prayer, and she too was standing praying. I said, 'What is everybody doing?' She pointed towards the sky with her hand and said, 'Glory be to Allah.' I said, 'A sign?' She nodded 'Yes' with her head."

She continued, "I stood until I had almost fainted, and I began to pour water over my head. The Messenger of Allah, may Allah bless him and grant him peace, praised Allah and spoke well of Him, and then said, 'There is nothing which I had previously not seen beforehand that I have not now seen while standing - even the Garden and the Fire. It has been revealed to me that you will be tried in your graves with a trial, like, or near to, the trial of the Dajjal (I do not know which one Asma said). Every one of you will have someone who comes to him and asks him, 'What do you know about this man?' A mumin, or one who has certainty (muqin) (I do not know which one Asma said), will say, 'He is Muhammad, the Messenger of Allah, may Allah bless him and grant him peace, who came to us with clear proofs and guidance, and we answered and believed and followed.' He will then be told, 'Sleep in a good state. We know now that you were a mumin.' A hypocrite, however, or one who has doubts (l do not know which one Asma said), will say, 'I do not know, I heard everybody saying something and I said it.' "

Translation of Malik's Muwatta, Book 13:

Asking for Rain

Section: How to Ask for Rain

Book 13, Number 13.1.1:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Amr ibn Hazm that he had heard Abbad ibn Tamim say that he had heard Abdullah ibn Zayd al-Mazini say, "The Messenger of Allah, may Allah bless him and grant him peace, came out to the place of prayer and asked for rain, and when he faced the qibla he turned his cloak inside out."

Malik was asked how many rakas there were in the prayer of asking for rain and he said, "Two rakas, and the imam does the prayer before he gives the khutba. He prays two rakas, and then he gives a khutba and makes dua, facing the qibla and turning his cloak inside out. He recites out loud in both rakas, and when he turns his cloak inside out he puts what is on his right on his left, and what is on his left on his right, and all the people turn their cloaks inside out when the imam does so, and face the qibla, sitting."

Section: About Asking for Rain

Book 13, Number 13.2.2:

Yahya related to me from Malik from Yahya ibn Said from Amr ibn Shuayb that the Messenger of Allah, may Allah bless him and grant him peace, said, when he asked for rain, "O Allah, give water to Your slaves and Your animals, and spread Your mercy, and give life to Your dead land."

Book 13, Number 13.2.3:

Yahya related to me from Malik from Sharik ibn Abdullah ibn Abi Namir that Anas ibn Malik said, "A man came to the Messenger of Allah, may Allah bless him and grant him peace, and said, 'Messenger of Allah, our animals are dying and our camels are too weak to travel, so make dua to Allah.' The Messenger of Allah, may Allah bless him and grant him peace, made dua, and it rained on us from one jumua to the next."

Anas continued, "Then a man came to the Messenger of Allah, may Allah bless him and grant him peace, and said, 'Messenger of Allah, our houses have fallen down, the paths are blocked, and our flocks are dying.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'O Allah, (only) the mountain and hill-tops, the valley bottoms, and the places where trees grow.' "

Anas added, "It cleared away from Madina like a garment being removed."

Malik said, about a man who missed the prayer of asking for rain but caught the khutba, and wished to pray in the mosque, or in his house when he returned, "He is free to do so, or not, as he wishes."

Section: About Asking the Stars for Rain

Book 13, Number 13.3.4:

> Yahya related to me from Malik from Salih ibn Kaysan from Ubaydullah ibn Abdullah ibn Utba ibn Masud that Zayd ibn Khalid al-Juhani said, "The Messenger of Allah, may Allah bless him and grant him peace, took the subh prayer with us at Hudaybiyya after it had rained in the night. When he had finished he went up to the people and said, 'Do you know what your Lord has said?' They said, 'Allah and His Messenger know best.' He said, 'Some of my slaves have begun the morning believing in Me, and others have begun it rejecting Me. As for those who say, 'We were rained on by the overflowing favour of Allah and His mercy,' they believe in Me and reject the stars. But as for those who say, 'We were rained on by such and such a star, they reject Me and believe in the stars.' "

Book 13, Number 13.3.5:

> Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, used to say, "When a cloud appears from the direction of the sea and then goes towards ash-Sham, it will be an abundant source of rain."

Book 13, Number 13.3.6:

> Yahya related to me from Malik that he had heard that Abu Hurayra used to say, when morning came after it had rained on the people, "We have been rained upon by the rain of Allah's opening," and would then recite the ayat, "Whatever Allah opens to man of His mercy no-one can withhold, and whatever He withholds no-one can send forward after Him. " (Sura 35 ayat 2).

Translation of Malik's Muwatta, Book 14:

The Qibla

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Section: The Prohibition against Relieving Oneself Facing the Qibla

Book 14, Number 14.1.1:

Yahya related to me from Malik from Ishaq ibn Abdullah ibn Abi Talha that Rafiibn Ishaq, a mawla of the family of ash-Shifa who was known as the mawla of Abu Talha, heard Abu Ayyub al-Ansari, one of the companions of the Messenger of Allah, may Allah bless him and grant him peace, say, while he was in Egypt, "By Allah! I don't know how to deal with these lavatories." The Messenger of Allah, may Allah bless him and grant him peace, said, "When you go to defecate or urinate, do not expose your genitals towards the qibla, and do not put your back to it."

Book 14, Number 14.1.2:

Yahya related to me from Malik from one of the Ansar that the Messenger of Allah, may Allah bless him and grant him peace, forbade defecating or urinating while facing the qibla.

14.2 Permission to Face the Qibla when Urinating or Defecating

Section: Permission to Face the Qibla when Urinating or Defecating

Book 14, Number 14.2.3:

Yahya related to me from Malik from Yahya ibn Said from Muhammad ibn Yahya ibn Habban from his paternal uncle, Wasi ibn Habban, that Abdullah ibn Umar said, "People say, 'When you sit to relieve yourself, do not face the qibla or the Bayt al-Maqdis.' "

Abdullah continued, "I went upon top of a house of ours and saw the Messenger of Allah, may Allah bless him and grant him peace, (squatting) on two unfired bricks facing the Bayt al-Maqdis, relieving himself."

Ibn Umar added, "Perhaps you are one of those who pray folded on their haunches."

Wasi replied, "I don't know, by Allah!"

Malik said that he meant som one who, when he prostrated, kept his body close to the ground.

Section: The Prohibition against Spitting towards the Qibla

Book 14, Number 14.3.4:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, saw spittle on the

wall of the qibla and scraped it off. Then he went up to the people and said, "Do not spit in front of you when you are praying, because Allah, the Blessed and Exalted, is in front of you when you pray."

Book 14, Number 14.3.5:

Yahya related to me from Malik from Hisham ibn Urwa from his father from A'isha, the wife of the Prophet, mayAllah bless him and grant him peace, that the Prophet, may Allah bless him and grant him peace, saw spittle, or mucus or phlegm, on the wall of the qibla and scraped it off.

Book 14, Number 14.3.6:

Yahya related to me from Malik from Abdullah ibn Dinar that Abdullah ibn Umar said, "On one occasion when the people were praying subhat Quba a man came to them and said, 'A piece of Qur'an was sent down to the Messenger of Allah, may Allah bless him and grant him peace, last night, and he was ordered to face the Kaba, so face it.' They had been facing ash-Sham, so they turned round and faced the Kaba."

Book 14, Number 14.3.7:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab said, "The Messenger of Allah, may Allah bless him and grant him peace, prayed towards the Baytal-Maqdis for sixteen months after arriving in Madina. Then the qibla was moved, two months before the battle of Badr. "

Book 14, Number 14.3.8:

Yahya related to me from Malik from Nafi that Umar ibn al-Khattab said, "Any direction that is between east and west can be taken as a qibla if the person praying is face-on to the House."

Section: Concerning the Mosque of the Prophet, may Allah Bless Him and Grant Him Peace

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Book 14, Number 14.4.9:

Yahya related to me from Malik from Zayd ibn Rabah and Ubaydullah ibn Abi Abdullah Salman al-Agharr from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "A prayer in this mosque of mine is better than a thousand prayers in any other mosque, except the Masjid al-Haram (in Makka)."

Book 14, Number 14.4.10:

Yahya related to me from Malik from Khubayb ibn Abd ar-Rahman from Hafs ibn Asim from Abu Hurayra or from Abu Said al-Khudri that the Messenger of Allah, may Allah bless him and grant him peace, said, "What is between my house and my mimbar is one of the meadows of the Garden, and my mimbar is on my watering-place (al-Hawd)."

Book 14, Number 14.4.11:

Yahya related to me from Malik from Abdullah ibn Abi Bakr from Abbad ibn Tamim from Abdullah ibn Zayd al-Mazini that the Messenger of Allah, may Allah bless him and grant him peace, said, "What is between my house and my mimbar is one of the meadows of the Garden."

Section: Concerning Women Going Out to the Mosque

Book 14, Number 14.5.12:

Yahya related to me from Malik that he had heard that Abdullah ibn Umar said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'Do not forbid the female slaves of Allah from (going into) the mosques of Allah.' "

Book 14, Number 14.5.13:

Yahya related to me from Malik that he had heard from Busr ibn Said that the Messenger of Allah, may Allah bless him and grant him peace, said, "None of you women should use perfume when you are present at the isha prayer."

Book 14, Number 14.5.14:

Yahya related to me from Malik from Yahya ibn Said that Atika bint Zayd ibn Amr ibn Nufayl, the wife of Umar ibn al-Khattab, used to ask Umar ibn al-Khattab for permission to go to the mosque. He would keep silent, so she would say, "By Allah, I will go out, unless you forbid me," and he would not forbid her.

Book 14, Number 14.5.15:

Yahya related to me from Malik from Yahya ibn Said from Amra bint Abd ar-Rahman that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "If the Messenger of Allah, may Allah bless him and grant him peace, had seen what women do now, he would have forbidden them to go into the mosques, just as the women of the Bani Israil were forbidden."

Yahya ibn Said said that he asked Amra, "Were the women of the Bani Israil forbidden to go into the mosques?" and she said, "Yes."

Translation of Malik's Muwatta, Book 15:

The Qur'an

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Section: The Order to Be In Wudu (When Touching the Qur'an)

Book 15, Number 15.1.1:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Hazm that in a letter that the Messenger of Allah, may Allah bless him and grant him peace, sent to Amr ibn Hazm it said that no-one should touch the Qur'an unless he was pure.

Malik said, "No-one should carry the Qur'an by its strap, or on a cushion, unless he is pure. If it were permissible to do so, it would also have been permissible to carry it in its cover. This is not because there is something on the hands of the one who carries it by which the Qur'an will be soiled, but because it is disapproved of for someone to carry the Qur'an without being pure out of respect for the Qur'an, and in order to honour it."

Malik said, "The best thing that I have heard about this is the ayat 'None touch it except the purified.' (Sura 56 ayat 79) It ranks with the ayat in Surat Abasa (Sura 80), where Allah, the Blessed and Exalted, says, 'No, it is a reminder, and whoever wishes will remember it. Upon honoured pages, exalted and purified, by the hands of scribes, noble and obedient.' "

Section: Permission to Recite the Qur'an When Not in Wudu

Book 15, Number 15.2.2:

Yahya related to me from Malik from Ayyub ibn Abi Tamima as-Sakhtayani from Muhammad ibn Sirin that Umar ibn al-Khattab was with some people who were reciting Qur'an. He went to relieve himself and then came back and recited Qur'an. One of the men said to him, "Amir al muminin, are you reciting the Qur'an without being in wudu?" Umar replied, "Who gave you a verdict on this? Was it Musaylima?"'

Section: About the Division of the Qur'an into Sections (Hizbs)

Book 15, Number 15.3.3:

Yahya related to me from Malik from Dawud ibn al-Husayn from al-Araj from Abd ar-Rahman ibn Abd al-Qari that Umar ibn al Khattab said, "Whoever misses reading his hizb at night and reads it from when the sun has passed the meridian until the dhuhr prayer has not missed it, or it is as if he has caught it."

Book 15, Number 15.3.4:

Yahya related to me from Malik that Yahya ibn Said said, "Once Muhammad ibn Yahya ibn Habban and I were sitting down, and Muhammad called a man over to him and said to him, 'Tell me what you have heard from your father.' The man

replied that his father had told him that he went to Zayd ibn Thabit and asked him, 'What do you think of reciting the whole Qur'an in seven days?' Zayd said, 'That's good, but I prefer to recite it in two weeks, or ten days. Ask me why that is.' He said, 'I ask you then.' Zayd said, 'So that I can reflect on it and pause in it.' "

Section: About the Qur'an

Book 15, Number 15.4.5:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr that Abd ar-Rahman ibn Abd al-Qari said that he had heard Umar ibn al-Khattab say, "I heard Hisham ibn Hakim ibn Hizam reciting Surat al-Furqan (Sura 25) differently from me, and it was the Messenger of Allah, may Allah bless him and grant him peace, who had recited it to me. I was about to rush up to him but I granted him a respite until he had finished his prayer. Then I grabbed him by his cloak and took him to the Messenger of Allah, may Allah bless him and grant him peace, and said, 'Messenger of Allah, I heard this man reciting Surat al-Furqan differently from the way you recited it to me.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'Let him go.' Then he said, 'Recite, Hisham,' and Hisham recited as I had heard him recite. The Messenger of Allah, may Allah bless him and grant him peace, said, 'It was sent down like that.' Then he said to me, 'Recite' and I recited the sura, and he said, 'It was sent down like that. This Qur'an was sent down in seven (different) ways, so recite from it whatever is easy for you .' "

Book 15, Number 15.4.6:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "A man who knows the Qur'an well is like a man who has a hobbled camel. If he takes care of it, he keeps it, and if he lets it go, it gets away."

Book 15, Number 15.4.7:

Yahya related to me from Malik from Hisham ibn Urwa from his father from A'isha, the wife of the Prophet, may Allah bless him and grant him peace, that al-Harith ibn Hisham asked the Messenger of Allah, may Allah bless him and grant him peace, "How does the revelation come to you?" and the Messenger of Allah, may Allah bless him and grant him peace, said, "Sometimes it comes to me like the ringing of a bell, and that is the hardest for me, and when it leaves me I remember what it has said. And sometimes the angel appears to me in the likeness of a man and talks to me and I remember what he says."

A'isha added, "I saw it coming down on him on an intensely cold day, and when it had left him his forehead was dripping with sweat."

Book 15, Number 15.4.8:

Yahya related to me from Malik from Hisham ibn Urwa that his father said that Abasa (Sura 80) was sent down about Abdullah ibn Umm Maktum. He came to the Prophet, may Allah bless him and grant him peace, and began to say, "O Muhammad, show me a place near you (where I can sit)," whilst one of the leading men of the idol worshippers was in audience with the Prophet, may Allah bless him and grant him peace. The Prophet, may Allah bless him and grant him peace, began

to turn away from him and give his attention to the other man, and he said to him, "Father of so-and-so, do you see any harm in what I am saying?" and he said, "No, by the blood (of our sacrifices) I see no harm in what you are saying." And Abasa - "He frowned and turned away when the blind man came" - was sent down.

Book 15, Number 15.4.9:

Yahya related to me from Malik from Zayd ibn Aslam from his father that the Messenger of Allah, may Allah bless him and grant him peace, was on one of his journeys, and one night Umar ibn al-Khattab, who was travelling with him, asked him about something, but he did not answer him. He asked him again, but he did not answer him. Then he asked him again, and again he did not answer him. Umar said, "May your mother be bereaved of you, Umar. Three times you have importuned the Messenger of Allah, may Allah bless him and grant him peace, with a question and he has not answered you at all."

Umar continued, "I got my camel moving until, when I was in f ront of the people, I feared that a piece of Qur'an was being sent down about me. It was not long before I heard a crier calling for me, and I said that I feared that a piece of Qur'an had been sent down about me." He continued, "I came to the Messenger of Allah, may Allah bless him and grant him peace, and said, 'Peace be upon you' to him, and he said, 'A sura has been sent down to me this night that is more beloved to me than anything on which the sun rises.' Then he recited al-Fath (Sura 48).

Book 15, Number 15.4.10:

Yahya related to me from Malik from Yahya ibn Said from Muhammad ibn Ibrahim ibn al-Harith at-Taymi from Abu Salama ibn Abd ar Rahman that Abu Said said that he had heard the Messenger of Allah, may Allah bless him and grant him peace, say, "A group of people will appear among you whose prayer, fasting and deeds will make you think little of your own prayer, fasting and deeds. They will recite the Qur'an, but it wil not get past their throats, and they will pass through the deen like an arrow passes through game. You look at the arrowhead, and you see nothing, and you look at the shaft, and you see nothing, and you look at the flights, and you see nothing. And you are in doubt about the notch."

Book 15, Number 15.4.11:

Yahya related to me from Malik that he had heard that it took Abdullah ibn Umar eight years to learn Surat al-Baqara. (Sura 2)

15.5 The Prostration of the Qur'an

Section: The Prostration of the Qur'an

Book 15, Number 15.5.12:

Yahya related to me from Malik from Abdullah ibn Yazid, the mawla of al Aswad ibn Sufyan, from Abu Salama ibn Abd ar Rahman that Abu Hurayra recited al-Inshiqaq (Sura 84) to them and prostrated in it. When he had finished he told them that the Messenger of Allah, may Allah bless him and grant him peace, had prostrated in it.

Book 15, Number 15.5.13:

Yahya related to me from Malik from Nafi, the mawla of Ibn Umar that a man from Egypt told him that Umar ibn al-Khattab recited Surat al-Hajj (Sura 22) and prostrated twice in it, and then said, "This sura has been given special preference by having two prostrations in it."

Book 15, Number 15.5.14:

Yahya related to me from Malik that Abdullah ibn Dinar said, "I saw Abdullah ibn Umar prostrate twice in Surat al-Hajj (Sura 22)."

Book 15, Number 15.5.15:

Yahya related to me from Malik from Ibn Shihab from al-Araj that Umar ibn al Khattab recited Surat an-Najm (Sura 53) and prostrated in it, and then got up and recited another sura.

Book 15, Number 15.5.16:

Yahya related to me from Malik from Hisham ibn Urwa from his father that Umar ibn al-Khattab once recited a piece of Qur'an requiring a prostration while he was on the mimbar on the day of jumua, and he came down and prostrated, and everyone prostrated with him. Then he recited it again the next jumua and everybody prepared to prostrate but he said, "At your ease. Allah has not prescribed it for us, unless we wish." He did not prostrate, and he stopped them from prostrating.

Malik said, "The imam does not come down and prostrate when he recites a piece of Qur'an requiring a prostration while he is on the mimbar."

Malik said, "The position with us is that there are eleven prescribed prostrations in the Qur'an, none of which are in the mufassal."

Malik said, "No-one should recite any of the pieces of Qur'an that require a prostration after the prayers of subh and asr. This is because the Messenger of Allah, may Allah bless him and grant him peace, forbade prayer after subh until after the sun had risen, and after asr until the sun had set, and prostration is part of the prayer. So no-one should recite any piece of Qur'an requiring a prostration during these two periods of time."

Malik was asked whether a menstruating woman could prostrate if she heard some-one reciting a passage of Qur'an requiring a prostration, and he said, "Neither a man nor a woman should prostrate unless they are ritually pure."

Malik was asked whether a man in the company of a woman who was reciting a passage of Qur'an requiring a prostration should prostrate with her, and he said, "He does not have to prostrate with her. The prostration is only obligatory for people who are with a man who is leading them. He recites the piece and they prostrate with him. Some one who hears a piece of Qur'an that requires a prostration being recited by a man who is not leading him in prayer does not have to do the prostration."

Section: About Reciting Surat al-Ikhlas and Surat al-Mulk

Book 15, Number 15.6.17:

Yahya related to me from Malik from Abd ar-Rahman ibn Abdullah ibn Sasaca from his father that Abu Said al-Khudri heard a man reciting Surat al-Ikhlas (Sura 112), repeating it over and over again. In the morning he went to the Messenger of Allah, may Allah bless him and grant him peace, and mentioned it to him, as if he thought little of it. The Messenger of Allah, may Allah bless him and grant him peace, said, "Bythe One in whose hand my self is, it is equal to one third of the Qur'an."

Book 15, Number 15.6.18:

Yahya related to me from Malik from Ubaydullah ibn Abd ar-Rahman that Ubayd ibn Hunayn, the mawla of the family of Zayd ibn al Khattab, said that he had heard Abu Hurayra say, "I was going along with the Messenger of Allah, may Allah bless him and grant him peace, when he heard a man reciting Surat al-Ikhlas (Sura 112). The Messenger of Allah, may Allah bless him and grant him peace, said, 'It is obligatory,' and I asked him, 'What is, Messenger of Allah?' and he said, 'The Garden.' I wanted to tell the man the good news but I was afraid that I would miss the midday meal with the Messenger of Allah, may Allah bless him and grant him peace, and I preferred to eat with the Messenger of Allah, may Allah bless him and grant him peace. When I went to the man afterwards I found that he had gone."

Book 15, Number 15.6.19:

Yahya related to me from Malik from Ibn Shihab that Humayd ibn Abd ar-Rahman ibn Awf had told him that Surat al-Ikhlas (Sura 112) was equal to a third of the Qur'an, and that Surat al-Mulk (Sura 67) pleaded for its owner.

Section: Dhikr (Remembrance) ofAllah, the Blessed and Exalted

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Book 15, Number 15.7.20:

Yahya related to me from Malik from Sumayy, the mawla of Abu Bakr, from Abu Salih as-Samman from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever says 'There is no god but Allah, alone, without any partner. The Kingdom and praise belong to Him and He has power over everything' (La ilaha illa'llah, wahdahu la sharika lah, lahu'l mulku wa lahu'l hamd, wa huwa ala kulli shay'in qadir) one hundred times a day, it is the same for him as freeing ten slaves. One hundred good actions are written for him and one hundred wrong actions are erased from him, and it is a protection from Shaytan for that day until the night. No-one does anything more excellent than what he does except someone who does more than that."

Book 15, Number 15.7.21:

Yahya related to me from Malik from Sumayy, the mawla of Abu Bakr, from Abu Salih as-Samman from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever says, 'Glory be to Allah and with His praise' (Subhana'llah wa bi-hamdihi) one hundred times in a day will have his wrong actions taken away from him, even if they are as abundant as the foam on the sea."

Book 15, Number 15.7.22:

Yahya related to me from Malik from Abu Ubayd, the mawla of Sulayman ibn Abd al-Malik, from Ata ibn Yazid al-Laythi that Abu Hurayra said, "Whoever says 'Glory be to Allah' (Subhana'llah) thirty-three times and 'Allah is Greater' (Allahu akbar) thirty-three times and 'Praise be to Allah' (al-hamdu lillah) thirty-three times, and seals the hundred with 'There is no god but Allah, alone without any partner. The Kingdom and praise belong to Him and He has power over everything' (La ilaha illa'llah, wahdahu la sharika lah, lahu'l mulku wa lahu'l hamd, wa huwa ala kulli shay'in qadir) after every prayer will have his wrong actions forgiven him even if they are abundant as the foam on the sea."

Book 15, Number 15.7.23:

Yahya related to me from Malik that Umara ibn Sayyad had heard Said ibn al Musayyab say about abiding good deeds that they were a slave's saying 'Allah is greater' (Allahu akbar) and 'Glory be to Allah' (Subahana'llah) and 'Praise be to Allah' (al-hamdu lillah) and 'There is no god but Allah and there is no power and no strength except by Allah.'

La ilaha illa'llah wa la hawla wa la quwwata illa bi'llah.

Book 15, Number 15.7.24:

Yahya related to me from Malik that Ziyad ibn Abi Ziyad said that Abu'd-Darda had said, "Shall I not tell you the best of your deeds, and those that give you the highest rank, and those that are the purest with your King, and are better for you than giving gold and silver, and better for you than meeting your enemy and striking their necks?" They said, "Of course." He said, "Remembrance (dhikr) of Allah ta ala."

Book 15, Number 15.7.25:

Malik related to me from Nuaym ibn Abdullah ibn al-Mujmir from AIi ibn Yahya az-Zuraqi from his father that Rifaa ibn Rafi said, "One day we were praying behind the Messenger of Allah, may Allah bless him and grant him peace, when the Messenger of Allah, may Allah bless him and grant him peace, raised his head from ruku and said, 'Allah hears the one who praises Him' (Sami Allahu liman hamidah). A man behind him said, 'Our Lord, praise belongs to you - blessed, pure and abundant praise' (Rabbana wa laka'l hamd kathiran tayiban mubarakan fihi). When the Messenger of Allah, may Allah bless him and grant him peace, had finished, he said, 'Who was it who spoke just now?' The man said, 'I did, Messenger of Allah,' and the Messenger of Allah, may Allah bless him and grant him peace, said, 'I saw more than thirty angels rushing to it to see which one of them would record it first.' "

Section: Dua (Supplication)

Book 15, Number 15.8.26:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Every prophet is given a supplication (dua), and I wish to preserve my dua as intercession

for my community in the next world.

Book 15, Number 15.8.27:

Yahya related to me from Malik from Yahya ibn Said that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, used to say the following dua, "O Allah, it is You who makes the dawn break and makes the night a time for rest and appoints the sun and moon to reckon by. Relieve me of debt and enrich me from poverty and let me enjoy my hearing, my sight and my strength in Your way."

Allahumma faliqa'l isbah, wa ja ila'l-layli sakana, wa'sh-shamsi wa'l-qamari husbana. Iqda anniy addayna, wa'ghnaniy mina'l faqr. Na'mti aniy bi samiy wa basariy, wa quwwatiy fi sabilik.

Book 15, Number 15.8.28:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you are making dua do not say; 'O Allah, forgive me if You wish. O Allah, forgive me if you wish.' You should be firm in your asking, for there is no compelling Him."

Book 15, Number 15.8.29:

Yahya related to me from Malik from Ibn Shihab from Abu Ubayd, the mawla of Ibn Azhar, from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "You will be answered as long as you are not impatient and say, 'I have made a dua and I have not been answered .' "

Book 15, Number 15.8.30:

Yahya related to me from Malik from Ibn Shihab from Abu Abdullah al-Agharr and from Abu Salama from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Our Lord, the Blessed and Exalted, descends every night to the heaven of this world when the last third of the night is still to come and says, 'Who will call on Me so that I may answer him? Who will ask Me so that I may give him? Who will ask forgiveness of Me so that I may forgive him?' "

Book 15, Number 15.8.31:

Yahya related to me from Malik from Yahya ibn Said from Muhammad ibn Ibrahim ibn al-Harith at-Taymi that A'isha, umm al-muminin said, "I was sleeping by the side of the Messenger of Allah, mayAllah bless him and grant him peace, and I missed him in the night, so I felt for him with my hand and I put my hand on his feet and he was in sajda saying, 'I seek refuge in Your pleasure from Your wrath, and in Your pardon from Your punishment, and in You from You. I cannot enumerate Your praises as You praise Yourself.' "

Audhu bi ridaka min sakhatika, wa bi muafatika min uqubatika wa bika minka, la uhsiy thana'an alayka, anta kama athnayta ala nafsika.

Book 15, Number 15.8.32:

Yahya related to me from Malik from Ziyad ibn Abi Ziyad from Talha ibn Ubaydullah ibn Kariz that the Messenger of Allah, may Allah bless him and grant him peace, said, "The best dua is dua on the day of Arafa, and the best thing that I or the Prophets before me have said is 'There is no god but Allah, alone, without any partner' (La ilaha illa'llah, wahdahu la sharika lah.)"

Book 15, Number 15.8.33:

Yahya related to me from Malik from Abu'zZubayr al-Makki from Tawus al-Yamani from Abdullah ibn Abbas that the Messenger of Allah, may Allah bless him and grant him peace, used to teach this dua in the same way that he would teach them a sura of the Qur'an, "O Allah, I seek refuge in You from the torment of Jahannam, and I seek refuge in You from the trial of the Dajjal, and I seek refuge in You from the trial of life and death."

Allahumma inniy audhu bika min adhabi jahannama, wa audhu bika min adhabi'l-qabri, wa audhu bika min fitnati'l-mahya wa mamati.

Book 15, Number 15.8.34:

Yahya related to me from Malik from Abu'z Zubayr al-Makki from Tawus al-Yamani from Abdullah ibn Abbas that the Messenger of Allah, may Allah bless him and grant him peace, used to say, when he rose for prayer in the middle of the night, "O Allah, praise belongs to You. You are the light of the heavens and the earth and praise belongs toYou.You are the Sustainer of the heavens and the earth and praise belongs to You. You are the Lord of the heavens and the earth and whoever is in them. You are the Truth, and Your words are true. Your promise is true, and the meeting with You is true. The Garden is true and the Fire is true and the Hour is true. O Allah, I submit toYou and I accept You and I trust in You and I turn to You and I argue by You and I summon toYou for judgement. Forgive me what I have sent before me and what I have left behind, what I have kept secret and what I have proclaimed, You are my god - there is no god but You."

Allahumma laka'l-hamdu anta nuru's-samawati wa'l-ardi, wa laka'l-hamdu anta qayamu's-Samawati wa'l-ardi, wa laka'l-hamdu anta rabbu's-Samawati wa'l-ardi,wamanfihina.Anta'l-haqqu,waqawluka'lhaqqu, wa waduka'l-haqqu, wa liqa'uka haqqun, wa jannatu haqqun, wa naru haqqun, wa sactu haqqun. Allahumma laka aslamtu, wa bikaamantu, waalayka tawakaltu, wa ilayka anabtu, wa bika khasamtu, wa ilayka hakamtu, fa'ghfirliy ma qadamtu wa akhartu wa asrartu, wa alantu. Anta ilahiy, la ilaha illa ant.

Book 15, Number 15.8.35:

Yahya related to me from Malik that Abdullah ibn Abdullah ibn Jabir ibn Atik said that Abdullah ibn Umar had come to them in Bani Muawiya, one of the villages of the Ansar, and said, "Do you know where the Messenger of Allah, may Allah bless him and grant him peace, prayed in this mosque of yours? "I told him, "Yes," and I pointed out a place near where he was. He said, "Do you know the three things for which he made dua here?" I said "Yes." He said, "Tell me them then." I said, "He asked that He would not make an enemy from among the non-believers triumph over the believers and that He would not destroy the believers by bad harvests, and he was given both these things. And he asked that He would not make the believers fight among themselves, and that was refused." Ibn Umar said, "You have told the

truth," and he added, "Turmoil will not cease until the day of rising."

Book 15, Number 15.8.36:

Yahya related to me from Malik that Zayd ibn Aslam used to say, "No-one makes a dua without one of three things happening. Either it is answered, or it is stored up for him, or wrong actions are atoned for by it."

Section: MakingDua

Book 15, Number 15.9.37:

Yahya related to me from Malik that Abdullah ibn Dinar said, "Abdullah ibn Umar saw me when I was making dua and I was pointing with two fingers, one from each hand, and he forbade me."

Book 15, Number 15.9.38:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab used to say, "A man is raised by the dua of his son after his death." He spoke with his hands turned upwards, and then lifted them up.

Book 15, Number 15.9.39:

Yahya related to me from Malik from Hisham ibn Urwa that his father said, "The following ayat was sent down about dua - 'And do not be loud in your prayer and do not be silent in it, but seek a way between these.' " (Sura 17 ayat 110)

Yahya said that Malik was asked about making dua in obligatory prayers and he said, "There is no harm in making dua in them."

Book 15, Number 15.9.40:

Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, used to make dua saying, "O Allah, I askYou for good actions and for leaving what is disapproved of and for love of the poor. And if You wish to try people, then bring me to You without being tried."

Allahumma inniy asa'luka fala'l-khayrati, wa tarqa'l-munqarati, wa hubba'l-masakin, wa idha aradta fi'n-nasi fitnatan fa'qbithni ilayka ghayra maftun.

Book 15, Number 15.9.41:

Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, said, "No one calls to guidance without having the same reward as those who follow him without diminishing their rewards at all. And no one calls to error without having the same burdens as they do without diminishing their burdens at all."

Book 15, Number 15.9.42:

Yahya related to me from Malik that he had heard that Abdullah ibn Umar said, "O Allah, make me one of the leaders of the people of taqwa ."

Allahumma jalniy min a'imati'l-mutaqin.

Book 15, Number 15.9.43:

Yahya related to me from Malik that he had heard that Abu'd-Darda used to rise in the middle of the night and say, "Eyes have slept, and stars have set, and You are the Living and Self Subsistent."

Namat'l uyun wa ghariti'n-nujum wa anta'lhayyu-l-qayyum.

Section: Forbidding Prayer After Subh and After Asr

Book 15, Number 15.10.44:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar from Abdullah as-Sunabihi that the Messenger of Allah, may Allah bless him and grant him peace, said, "The sun rises and with it is a horn of Shaytan and when the sun gets higher the horn leaves it. Then when the sun reaches the meridian the horn joins it and when the sun declines the horn leaves it, and when the sun has nearly set it joins it again." The Messenger of Allah, may Allah bless him and grant him peace, forbade prayer at these times.

Book 15, Number 15.10.45:

Yahya related to me from Malik from Hisham ibn Urwa that his father said that the Messenger of Allah, may Allah bless him and grant him peace, used to say, "Delay the prayer when the edge of the sun appears until it is completely in view, and delay the prayer when the edge of the sun is disappearing until it has completely disappeared."

Book 15, Number 15.10.46:

Yahya related to me from Malik that al-Ala ibn Abd ar-Rahman said, "We visited Anas ibn Malik after dhuhr and he stood up and prayed asr. When he had finished his prayer, we mentioned doing prayers early in their time, or he mentioned it, and he said that he had heard the Messenger of Allah, may Allah bless him and grant him peace, say, the prayer of the hypocrites, the prayer of the hypocrites, the prayer of the hypocrites is that one of them sits until the sun becomes yellow and is between the horns of Shaytan, or on the horn of Shaytan, and then gets up and rattles off four rakas, hardly remembering Allah in them at all.' "

Book 15, Number 15.10.47:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "You should not intend to pray either at sunrise or sunset."

Book 15, Number 15.10.48:

Yahya related to me from Malik from Muhammad ibn Yahya ibn Habban from al Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, forbade prayer after asr until the sun had set, and prayer after subh until the sun had risen.

Book 15, Number 15.10.49:

Yahya related to me from Malik from Abdullah ibn Dinar from Abdullah ibn Umar that Umar ibn al-Khattab used to say, "Do not intend to do your prayer at either sunrise or sunset, for the horns of Shaytan rise with the rising of the sun and set with its setting."

Umar used to beat people for that kind of prayer.

Book 15, Number 15.10.50:

Yahya related to me from Malik from Ibn Shihab from as-Sa'ib ibn Yazid that he saw Umar ibn al-Khattab beating al-Munkadir for praying after asr.

Translation of Malik's Muwatta, Book 16:

Burials

Section: Washing the Dead

Book 16, Number 16.1.1:

Yahya related to me from Malik from Jafar ibn Muhammad from his father that the Messenger of Allah, may Allah bless him and grant him peace, was washed in a long shirt.

Book 16, Number 16.1.2:

Yahya related to me from Malik from Ayyub ibn Abi Tamima as-Sakhtayani from Muhammad ibn Sirin that Umm Atiyya al-Ansariyya said, "The Messenger of Allah, may Allah bless him and grant him peace, came to us when his daughter died and said, 'Wash her three times, or five, or more than that if you think it necessary, with water and lotus leaves, and at the end put on some camphor, or a little camphor, and when you have finished let me know.' When we finished we told him, and he gave us his waist-wrapper and said, 'Shroud her with this.' "

Book 16, Number 16.1.3:

Yahya related to me from Malik from Abdullah ibn Abi Bakr that Asma bint Umays washed Abu Bakr as-Siddiq when he died. Then she went out and asked some of the muhajirun who were there, "I am fasting and this is an extremely cold day. Do I have to do ghusl?" They said, "No."

Book 16, Number 16.1.4:

Yahya related to me from Malik that he had heard people of knowledge say, "When a woman dies and there are no women with her to wash her and no man who has the right by blood ties to take charge of that for her and no husband to take charge of it for her, she should be purified by tayammum ,that is, by wiping her face and hands with earth."

Malik said, "When a man dies and there are only women with him, they also should purify him with earth ."

Malik said, "There is no particular way with us for washing the dead nor any recognised way to do it. They are just washed and purified."

Section: Shrouding the Dead

Book 16, Number 16.2.5:

Yahya related to me from Malik from Hisham ibn Urwa from his father from A'isha, the wife of the Prophet, may Allah bless him and grant him peace, that the Messenger of Allah, may Allah bless him and grant him peace, was shrouded in three pure white cotton garments, none of which was a long shirt or a turban.

Book 16, Number 16.2.6:

Yahya related to me from Malik that Yahya ibn Said said that he had heard that when Abu Bakr as-Siddiq was ill he asked A'isha, "How many shrouds did the Messenger of Allah, may Allah bless him and grant him peace, have?" and she replied, "Three pure white cotton garments." Abu Bakr said, "Take this garment (a garment he was wearing on which red clay or saffron had fallen) and wash it. Then shroud me in it with two other garments." A'isha said, "Why's that?", and Abu Bakr replied, "The living have greater need of the new than the dead. This is only for the body fluids that come out as the body decays."

Book 16, Number 16.2.7:

Yahya related to me from Malik from Ibn Shihab from Humayd ibn Abdar-Rahman ibn Awf that Abdullah ibn Amr ibn al-As said, "A dead man is clothed in a shirt and a waist-wrapper and then wrapped in a third, and if he only has one garment he is shrouded in that."

Section: Walking in Front of the Bier

Book 16, Number 16.3.8:

Yahya related to me from Malik from Ibn Shihab that the Messenger of Allah, may Allah bless him and grant him peace, and Abu Bakr and Umar as well as the khalifas up until this time and Abdullah ibn Umar, would walk in front of the bier.

Book 16, Number 16.3.9:

Yahya related to me from Muhammad ibn alMunkadir that Rabia ibn Abdullah ibn alHadir told him that he had seen Umar ibn al-Khattab leading people in front of the bier at the funeral of Zaynab bint Jahsh.

Book 16, Number 16.3.10:

Yahya related to me from Malik that Hisham ibn Urwa said, "I only ever saw my father in front of a funeral procession." He added, "Then he would come to al-Baqi and sit down until the procession passed him."

Book 16, Number 16.3.11:

Yahya related to me from Malik that Ibn Shihab said, "Walking behind the bier is in contradiction to the sunna."

16.4 The Prohibition Against Following the Bier with a Burning Torch

Section: The Prohibition Against Following the Bier with a Burning Torch

Book 16, Number 16.4.12:

Yahya related to me from Malik from Hisham ibn Urwa that Asma bint Abi Bakr said to her family, "Perfume my clothes with incense when I die and then embalm me. Do not put any of the embalming substance on my shroud, and do not follow me with a burning torch."

Book 16, Number 16.4.13:

Yahya related to me from Malik from Said ibn Abi Said al-Maqburi that Abu Hurayra forbade anyone to follow him with a burning torch after his death.

Yahya said, "I heard Malik disapprove of that."

Section: The Takbir Over a Dead Man

Book 16, Number 16.5.14:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, announced the death of an Najashi to everyone on the day that he died, and went out with them to the place of prayer, and then formed them into rows and said "Allah is greater" four times.

Book 16, Number 16.5.15:

Yahya related to me from Malik from Ibn Shihab that Abu Umama ibn Sahl ibn Hunayf told him that once a poor woman fell ill and the Messenger of Allah, may Allah bless him and grant him peace, was told of her illness, and the Messenger of Allah, may Allah bless him and grant him peace, used to visit poor people frequently and ask after them. The Messenger of Allah, may Allah bless him and grant him peace, said, "Let me know if she dies." Her bier was brought out at night-time and they did not want to wake up the Messenger of Allah, may Allah bless him and grant him peace. In the morning the Messenger of Allah, may Allah bless him and grant him peace, was told what had happened to her and he said, "Didn't I tell you to let me know if she died?" They replied, "Messenger of Allah, we did not want to wake you up and make you come out in the night." Then the Messenger of Allah, may Allah bless him and grant him peace, went out and formed everyone into rows by her grave and said "Allah is greater" four times.

Book 16, Number 16.5.16:

Yahya related to me that Malik asked Ibn Shihab about a man who caught some of the takbirs said over the corpse and missed the rest, and Ibn Shihab said, "He completes what he has missed."

Section: What to Say in the Prayer for the Dead

Book 16, Number 16.6.17:

Yahya related to me from Malik from Said ibn Abi Said al-Maqburi from his father that he had asked Abu Hurayra, "How do you pray over the dead?" and Abu Hurayra replied, "By the Life of Allah, I will tell you! I follow with the family and when the corpse is put down I say 'Allah is greater' and praise Allah and ask for blessings on His Prophet. Then I say, 'O Allah, he is Your slave and the son of Your male slave and Your female slave. He used to testify that there is no god but You and that Muhammad is Your slave and Your Messenger, and You know that best. O Allah, if he acted well, then increase for him his good action, and if he acted wrongly, then overlook his wrong actions. O Allah, do not deprive us of his reward, and do not try us after him.'"

Allahumma inna huwa abduka wa'bnu abdika wa'bnu amatika. Kana yash-hadu an la ilaha illa ant wa anna Muhammadan abduka wa rasooluka, wa anta alamu bihi. Allahumma in kana muhsinan zid fi ihsanihi, wa in kana musiyan fa tajawaz an sayatihi. Allahumma la tahrimna ajrahu wa lataftina badahu.

Book 16, Number 16.6.18:

Yahya related to me from Malik that Yahya ibn Said said that he heard Said ibn al-Musayyab say, "I once prayed behind Abu Hurayra over a child who had never done a wrong action and I heard him say, 'O Allah, give him protection from the torment of the grave.' "

Book 16, Number 16.6.19:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used not to recite when praying over a dead person.

Section: Permission to Pray Over the Dead After Subh until the Dawn is very Clear and After Asr until the Sun Turns Yellow

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Book 16, Number 16.7.20:

Yahya related to me from Malik from Muhammad ibn Abi Harmala, the mawla of Abd ar-Rahman ibn Abi Sufyan ibn Huwaytib, that Zaynab bint Abi Salama died during the time that Tariq was amir of Madina and her bier was brought out after subh and put in al-Baqi. He said that Tariq used to pray subh right at the beginning of its time. He added, "I heard Abdullah ibn Umar say to the family, 'You can either pray over your dead now or you can wait until the sun comes up.' "

Book 16, Number 16.7.21:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "The prayer for a dead person can be done after asr and subh if these have been prayed at their times."

Section: Doing the Prayer for the Dead in Mosques

Book 16, Number 16.8.22:

Yahya related to me from Malik from Abu'n Nadr, the mawla of Umar ibn Ubaydullah that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, ordered that the body of Sad ibn Abi Waqqas be brought past her in the mosque so that she could make dua for him. Some people disapproved of her doing that, and she said, "How hasty people are! The Messenger of Allah, may Allah bless him and grant him peace, only prayed over Suhayl ibn Bayda in the mosque."

Book 16, Number 16.8.23:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "The prayer over Umar ibn al-Khattab was done in the mosque."

Section: The Prayer over the Dead in General

Book 16, Number 16.9.24:

Yahya related to me from Malik that he had heard that Uthman ibn Affan and Abdullah ibn Umar and Abu Hurayra used to pray over the dead, both men and women, in Madina. They would put the men nearer to the imam and the women nearer to the qibla.

Book 16, Number 16.9.25:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar, when he prayed over the dead, would say, "Peace be upon you" loud enough for whoever was near to him to hear.

Book 16, Number 16.9.26:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "No-one should pray over a dead person unless he is in wudu."

Yahya said that he heard Malik say, "I have not seen any person of knowledge disapproving of praying over either a child born of adultery or its mother."

Section: Burying theDead

Book 16, Number 16.10.27:

Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, died on Monday and was buried on Tuesday and people prayed over him individually with no one leading them. Some people said that he would be buried near the mimbar, and others said that he would be buried in al-Baqi. Abu Bakr as-Siddiq came and said, "I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'No prophet was ever buried except in the place where he died.' "So a grave was dug for him there. When he was about to be washed they wished to take off his shirt but they heard a voice saying "Don't take off his shirt," so they did not take off his shirt and he was washed with it on, may Allah bless him and grant him peace.

Book 16, Number 16.10.28:

Yahya related to me from Malik from Hisham ibn Urwa that his father said, "There were two men in Madina, one of whom dug graves with a niche in the side wall for the body, and the other who did not, and they said, 'Whichever one comes first can do the job,' and the one who dug graves with a niche came first and dug the Messenger of Allah's grave, may Allah bless him and grant him peace."

Book 16, Number 16.10.29:

Yahya related to me from Malik that he had heard that Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, used to say, "I did not believe that the Messenger of Allah, may Allah bless him and grant him peace, had died until I heard the pickaxes fall."

Book 16, Number 16.10.30:

Yahya related to me from Malik from Yahya ibn Said that A'isha, the wife of the

Prophet, may Allah bless him and grant him peace, said, "I saw three moons fall into my room, and I related my vision to Abu Bakr as-Siddiq. Then, when the Messenger of Allah died, may Allah bless him and grant him peace, and was buried in my house, Abu Bakr said to me, 'This is one of your moons, and he is the best of them.' "

Book 16, Number 16.10.31:

Yahya related to me from Malik from more than one reliable source that Sad ibn Abi Waqqas and Said ibn Zayd ibn Amr ibn Nufayl died at al-Aqiq and were carried to Madina and buried there.

Book 16, Number 16.10.32:

Yahya related to me from Malik from Hisham ibn Urwa that his father said, "I would not want to be buried in al-Baqi. I would prefer to be buried elsewhere. The one who is buried in al-Baqi is one of two people. Either he is unjust (dhalim), and I would not like to be buried with him, or he is salih, and I would not like his bones to be disturbed for me."

Section: Stopping for Funerals and Sitting in Graveyards

Book 16, Number 16.11.33:

Yahya related to me from Malik from Yahya ibn Said from Wafid ibn Amr ibn Said ibn Muadh from Nafi ibn Jubayr ibn Mutim from Masud ibn al-Hakam from AIi ibn Abi Talib that the Messenger of Allah, may Allah bless him and grant him peace, used to stand up when a funeral procession passed by, and then sit down again afterwards.

Book 16, Number 16.11.34:

ahya related to me from Malik that he had heard that AIi ibn Abi Talib used to rest his head on graves and lie on them.

Malik said, "As far as we can see ,it is only forbidden to sit on graves to relieve oneself."

Book 16, Number 16.11.35:

Yahya related to me from Malik from Abu Bakr ibn Uthman ibn Sahl ibn Hunayf that he had heard Abu Umama ibn Sahl ibn Hunayf say, "We used to attend funeral processions, and the last of the people would not sit until they had been given permission ."

Section: The Prohibition Against Weeping Over the Dead

Book 16, Number 16.12.36:

Yahya related to me from Malik from Abdullah ibn Abdullah ibn Jabir ibn Atik that Atik ibn al-Harith, the grandfather of Abdullah ibn Abdullah ibn Jabir on his mother's side, told him that Jabir ibn Atik had told him that the Messenger of Allah, may Allah bless him and grant him peace, came to visit Abdullah ibn Thabit and found him in his death-throes. He called to him but he did not reply. The Messenger

of Allah, may Allah bless him and grant him peace, said, "We belong to Allah, and to Him we are returning," and added, "You are being taken from us, Abu'r-Rabi." The women cried out and wept, and Jabir began to silence them. The Messenger of Allah, may Allah bless him and grant him peace, said, "Leave them, and when the necessary time comes, none of the women should cry." They said, "Messenger of Allah, what is the necessary time?", and he replied, "When he dies." The dying man's daughter said, "By Allah, I hope that you will be a martyr, for you have completed your preparations for battle," and the Messenger of Allah, may Allah bless him and grant him peace, said, "Allah has made his reward fall according to his intention. What do you consider dying a martyr to be?" They said, "Death in the way of Allah." The Messenger of Allah, may Allah bless him and grant him peace, said, "There are seven kinds of rnartyr other than those killed in the way of Allah. Someone who is killed by the plague is a martyr, someone who drowns is a martyr, someone who dies of pleurisy is a martyr, someone who dies of a disease of the belly is a martyr, someone who dies by fire is a martyr, someone who dies under a falling building is a martyr and a woman who dies in childbirth is a martyr."

Book 16, Number 16.12.37:

Yahya related to me from Malik from Abdullah ibn Abi Bakr from his father that Amra bint Abd ar-Rahman told him that she had heard A'isha, the umm al-muminin, say (when it was mentioned to her that Abdullah ibn Umar used to say, "The dead are tormented by the weeping of the living"), "May Allah forgive Abu Abd ar-Rahman. Of course he has not lied, but he has forgotten, or made a mistake. The Messenger of Allah, may Allah bless him and grant him peace, passed by a jewish woman whose family were crying over her and he said, 'You are crying over her, and she is being tormented in her grave. ' "

Section: Contentment in the Face of Misfortune

Book 16, Number 16.13.38:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "No muslim who has three children die will be touched by the Fire except to fulfil Allah's oath."

Book 16, Number 16.13.39:

Yahya related to me from Malik from Muhammad ibn Abi Bakr ibn Amr ibn Hazm from his father from Abu'n-Nadr as-Salami that the Messenger of Allah, may Allah bless him and grant him peace, said, "If three of a muslim's children die, and he remains content with that, they will be a protection for him from the Fire." A woman who was with the Messenger of Allah, may Allah bless him and grant him peace, said, "Or two, Messengerof Allah?", and he said, "Or two."

Book 16, Number 16.13.40:

Yahya related to me from Malik that he had heard from Abu'l-Hubab Said ibn Yasar from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "The mumin continues to be struck by misfortune in his children and close friends until he meets Allah with no wrong actions."

Section: Contentment in the Face of Misfortune Generally

Book 16, Number 16.14.41:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim ibn Muhammad ibn Abi Bakr that the Messenger of Allah, may Allah bless him and grant him peace, said, "Let the misfortune that befalls me be a comfort to the muslims in their misfortunes."

Book 16, Number 16.14.42:

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman from Umm Salama, the wife of the Prophet may Allah bless him and grant him peace, that the Messenger of Allah, may Allah bless him and grant him peace, said, "If a misfortune befalls some one and he says, as Allah has ordered, 'We belong to Allah and to Him we are returning. O Allah, reward me in my misfortune and give me better than it afterwards,' Allah will do that for him" (Inna lillahi wa inna ilayhi rajiun. Allahumma' jurniy fi musiybatiy, wa a qibhiy khayran minha, illa faala 'llahu dhalika bihi.).

Umm Salama said, "When Abu Salama died I said that, and then I said, 'Who is better than Abu Salama?' " And then Allah left her the Messenger of Allah, may Allah bless him and grant him peace, and he married her.

Book 16, Number 16.14.43:

Yahya related to me from Malik from Yahya ibn Said that al-Qasim ibn Muhammad said, "One of my wives died and Muhammad ibn Kab al Quradhi came to console me about her. He told me of one among the Bani Israil who was a diligent, worshipping, knowing and understanding man who had a wife that he admired and loved, and she died. He grieved over her intensely and lamented her until he withdrew into a house and locked himself in, hidden from everyone, and no-one visited him. A woman heard about him and went to him, saying, 'I need him to give me an opinion. Nothing will satisfy me except what he says about it.' Everyone went away, but she stuck to his door and said, 'I must see him.' Someone said to him, 'There is a woman who wishes to ask your opinion about something,' and she insisted, 'I will only talk to him about it.' When everyone had gone away, and she still had not left his door, he said, 'Let her in.' So she went in and saw him and said, 'I have come to ask your opinion about something.' He said, 'What is it?' She said, 'I borrowed a piece of jewellery from a neighbour of mine, and I have worn it and used it for a long time. Then they sent to me for it. Should I let them have it back?' He said, 'Yes, by Allah.' She said, 'I have had it for a long time.' He said, 'It is more correct for you to return it to them, since they have lent it to you for such a long time.' She said, 'Yes. May Allah have mercy on you. Do you then grieve over what Allah has lent you and then taken from you, when He has a greater right to it than you?' Then he saw the situation he was in, and Allah helped him by her words."

Section: Digging Up Graves

Book 16, Number 16.15.44:

Yahya related to me from Malik that Abu'r-Rijal Muhammad ibn Abd ar-Rahman

heard his mother Amra bint Abd ar-Rahman say, "The Messenger of Allah, may Allah bless him and grant him peace, cursed both men and women who dug up," meaning those who dug up graves.

Book 16, Number 16.15.45:

Yahya related to me from Malik that he had heard that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, used to say, "Breaking the bone of a muslim when he is dead is like breaking it when he is alive." She meant if done in wrong action.

Section: Burial in General

Book 16, Number 16.16.46:

Yahya related to me from Malik from Hisham ibn Urwa from Abbad ibn Abdullah ibn az-Zubayr that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, told him that she had heard the Messenger of Allah, may Allah bless him and grant him peace, say before he died, while he was leaning on her breast and she was listening to him, "O Allah, forgive me and have mercy on me and join me with the highest company."

Book 16, Number 16.16.47:

Yahya related to me from Malik that he heard that A'isha said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'No prophet dies until he is given the choice.' " She continued, "I heard him say ,'O Allah, the highest company,' and I knew that he was going."

Book 16, Number 16.16.48:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you die, your place will be shown to you in the morning and the evening. If you are one of the people of the Garden, then you will be with the people of the Garden, and if you are one of the people of the Fire, then you will be with the people of the Fire. You will be told, 'This is your place of waiting until Allah raises you on the day of rising.' "

Book 16, Number 16.16.49:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "The earth eats all of the son of Adam except the coccyx. He was created from it, and on it he is built."

Book 16, Number 16.16.50:

Yahya related to me from Malik from Ibn Shihab that Abd ar-Rahman ibn Kab ibn Malik al-Ansari told him that his father, Kab ibn Malik, used to relate that the Messenger of Allah, may Allah bless him and grant him peace, said, "The ruh of the mumin is a bird that sits in the trees of the Garden until Allah returns it to his body on the day He raises him ."

Book 16, Number 16.16.51:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Allah, the Blessed and Exalted, said, 'If My slave longs to meet Me, I long to meet him, and if he is averse to meeting Me, I am averse to meeting him.' "

Book 16, Number 16.16.52:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "A man said to his family that he had never done a good action, and that when he died they were to burn him and then scatter half of him on the land and half of him on the sea, and by Allah, if Allah destined it for him He would punish him with a punishment which He had not punished anyone else with in all the worlds. When the man died, they did as he had told them. Then Allah told the land to collect everything that was in it, and told the sea to collect everything that was in it, and then He said to the man, 'Why did you do this?' and he said, 'From fear of You, Lord, and You know best.' "

Abu Hurayra added, "And He forgave him."

Book 16, Number 16.16.53:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Every child is born on the fitra and it is his parents who make him a jew or a christian. Just as a camel is born whole - do you perceive any defect?" They said, "Messenger of Allah, what happens to people who die when they are (very) young?" He said, "Allah knows best what they used to do."

Book 16, Number 16.16.54:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "The Hour will not come until a man passes by the grave of another and says, 'If only I were in his place.' "

Book 16, Number 16.16.55:

Yahya related to me from Malik from Muhammad ibn Amr ibn Halhalaad-Dili from Mabad ibn Kab ibn Malik that Abu Qatada ibn Ribi used to relate that a funeral procession passed by the Messenger of Allah, may Allah bless him and grant him peace, and he said, "One is relieved and another others are relieved from." They said, "Who is the one relieved and the one from whom others are relieved?" He said, "A slave who is mumin is the one who is relieved from the exhaustion and suffering of this world to the mercy of Allah, and a wrong-acting slave is the one from whom people, towns, trees and animals are relieved."

Book 16, Number 16.16.56:

Yahya related to me from Malik that Abu'n Nadr, the mawla of Umar ibn Ubaydullah, said that the Messenger of Allah, may Allah bless him and grant him

peace, said, when Uthman ibn Madhun's funeral procession passed by him, "You have gone and you were not involved in any of it."

Book 16, Number 16.16.57:

Malik related to me from AIqama ibn Abi Alqama that his mother said that she had heard A'isha, the wife of the Prophet, may Allah bless him and grant him peace, say, "The Messenger of Allah, may Allah bless him and grant him peace, rose one night and put on his clothes and then went out. I ordered my slave-girl, Barira, to follow him, and she followed him until he got to al-Baqi. He stood near it as long as Allah willed and then he left. Barira arrived back before him and told me and I did not say anything to him until morning, and then I mentioned it to him and he explained, 'I was sent out to the people of al-Baqi to pray for them.' "

Book 16, Number 16.16.58:

Yahya related to me from Malik from Nafi that Abu Hurayra said, "Make your funerals speedy, for it is only good that you are advancing him towards, or evil that you are taking off your necks."

Translation of Malik's Muwatta, Book 17:

Zakat

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Section: Things on which Zakat must be Paid

Book 17, Number 17.1.1:

Yahya related to me from Malik from Amr ibn Yahya al-Mazini that his father said that he had heard Abu Said al-Khudri say that the Messenger of Allah, may Allah bless him and grant him peace, said, "There is no zakat on less than five camels, there is no zakat on less than five awaq (two hundred dirhams of pure silver) and there is no zakat on less than five awsuq (three hundred sa)."

Book 17, Number 17.1.2:

Yahya related to me from Malik from Muhammad ibn Abdullah ibn Abd arRahman ibn Abi Sasaca al-Ansari from al-Mazini from his father from Abu Said al-Khudri that the Messenger of Allah, may Allah bless him and grant him peace, said, "There is no zakat on less than five awsuq of dates, there is no zakat on less than five awaq of silver and there is no zakat on less than five camels."

Book 17, Number 17.1.3:

Yahya related to me from Malik that he had heard that Umar ibn Abd al-Aziz wrote to his governor in Damascus about zakat saying, "Zakat is paid on the produce of ploughed land, on gold and silver, and on livestock."

Malik said, "Zakat is only paid on three things: the produce of ploughed land, gold and silver, and livestock."

Section: The Zakat on Gold and Silver Coin

Book 17, Number 17.2.4:

Yahya related to me from Malik that Muhammad ibn Uqba, the mawla of az Zubayr, asked al-Qasim ibn Muhammad whether he had to pay any zakat on a large sum given to him by his slave to buy his freedom. Al-Qasim said, "Abu Bakr as-Siddiq did not take zakat from anyone's property until it had been in his possession for a year."

Al-Qasim ibn Muhammad continued, "When Abu Bakr gave men their allowances he would ask them, 'Do you have any property on which zakat is due?' If they said, 'Yes,' he would take the zakat on that property out of their allowances. If they said, 'No,' he would hand over their allowances to them without deducting anything from them."

Book 17, Number 17.2.5:

Yahya related to me from Malik from Urwa ibn Husayn from A'isha bint Qudama that her father said, "When I used to come to Uthman ibn Affan to collect my

allowance he would ask me, 'Do you have any property on which zakat is due? 'If I said, 'Yes,' he would deduct the zakat on that property from my allowance, and if I said, 'No,' he would pay me my allowance (in full)."

Book 17, Number 17.2.6:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "Zakat does not have to be paid on property until a year has elapsed over it."

Book 17, Number 17.2.7:

Yahya related to me from Malik that Ibn Shihab said, "The first person to deduct zakat from allowances was Muawiya ibn Abi Sufyan." (i.e. the deduction being made automatically) .

Malik said, "The agreed sunna with us is that zakat has to be paid on twenty dinars (of gold coin), in the same way as it has to be paid on two hundred dirhams (of silver)."

Malik said, "There is no zakat to pay on (gold) that is clearly less than twenty dinars (in weight) but if it increases so that by the increase the amount reaches a full twenty dinars in weight then zakat has to be paid. Similarly, there is no zakat to pay on (silver) that is clearly less than two hundred dirhams (in weight), but if it increases so that by the increase the amount reaches a full two hundred dirhams in weight then zakat has to be paid. If it passes the full weight then I think there is zakat to pay, whether it be dinars or dirhams." (i.e. the zakat is assessed by the weight and not the number of the coins.)

Malik said, about a man who had one hundred and sixty dirhams by weight, and the exchange rate in his town was eight dirhams to a dinar, that he did not have to pay any zakat. Zakat had only to be paid on twenty dinars of gold or two hundred dirhams.

Malik said, in the case of a man who acquired five dinars from a transaction or in some other way which he then invested in trade, that, as soon as it increased to a zakatable amount and then a year elapsed, he had to pay zakat on it, even if the zakatable amount was reached one day before or one day after the passing of a year. There was then no zakat to pay on it from the day the zakat was taken until a year had elapsed over it.

Malik said, in the similar case of a man who had in his possession ten dinars which he invested in trade and which reached twenty dinars by the time one year had elapsed over them, that he paid zakat on them right then and did not wait until a year had elapsed over them, (counting) from the day when they actually reached the zakatable amount. This was because a year had elapsed over the original dinars and there were now twenty of them in his possession. After that there was no zakat to pay on them from the day the zakat was paid until another year had elapsed over them.

Malik said, "What we are agreed upon (here in Madina) regarding income from hiring out slaves, rent from property, and the sums received when a slave buys his freedom, is that no zakat is due on any of it, whether great or small, from the day the owner takes possession of it until a year has elapsed over it from the day when the owner takes possession of it."

Malik said, in the case of gold and silver which was shared between two co-owners, that zakat was due from any one whose share reached twenty dinars of gold, or two hundred dirhams of silver, and that no zakat was due from anyone whose share fell short of this zakatable amount. If all the shares reached the zakatable amount and the shares were not equally divided, zakat was taken from each man according to the measure of his share. This applied only when the share of each man among them reached the zakatable amount, because the Messenger of Allah, may Allah bless him and grant him peace, had said, "There is no zakat to pay on less than five awaq of silver."

Malik commented, "This is what I prefer most out of what I have heard about the matter."

Malik said, "When a man has gold and silver dispersed among various people he must add it all up together and then take out the zakat due on the total sum ."

Malik said, "No zakat is due from some one who acquires gold or silver until a year has elapsed over his acquisition from the day it became his."

Section: The Zakat On Mines

Book 17, Number 17.3.8:

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman from more than one source that the Messenger of Allah, may Allah bless him and grant him peace, assigned the mines of al Qabaliyya, which is in the direction of al-Fur, to Bilal ibn Harith al-Mazini, and nothing has been taken from them up to this day except zakat.

Malik said, "In my opinion, and Allah knows best, nothing is taken from what comes out of mines until what comes out of them reaches a value of twenty gold dinars or two hundred silver dirhams. When it reaches that amount there is zakat to pay on it where it is on the spot. Zakat is levied on anything over that, according to how much of it there is as long as there continues to be a supply from the mine. If the vein runs out, and then after a while more becomes obtainable, the new supply is dealt with in the same way as the first, and payment of zakat on it is begun on it as it was begun on the first.

Malik said, "Mines are dealt with like crops, and the same procedure is applied to both. Zakat is deducted from what comes out of a mine on the day it comes out, without waiting for a year, just as a tenth is taken from a crop at the time it is harvested, without waiting for a year to elapse over it."

Section: The Zakat on Buried Treasure (Rikaz)

Book 17, Number 17.4.9:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab and from Abu Salama ibn Abd ar-Rahman from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace ,said, "There is a tax of a fifth on buried treasure."

Malik said, "The position which we are agreed upon, and which I have heard the people of knowledge mentioning, is that rikaz refers to treasure which has been found which was buried during the jahiliyya, as long as neither capital is required,

nor expense, great labour or inconvenience incurred in recovering it. If capital is required or great labour is incurred, or on one occasion the mark is hit and on another it is missed, then it is not rikaz."

Section: Things on Which there is No Zakat, in the Way of Jewellery, Bits of Gold and Silver, and Amber

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Book 17, Number 17.5.10:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim from his father that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, used to look after the orphaned daughters of her brother in her house. They had jewellery (which they wore) and she did not take zakat from this jewellery of theirs.

Book 17, Number 17.5.11:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to adorn his daughters and slave-girls with gold jewellery and he did not take any zakat from their jewellery.

Malik said, "Anyone who has unminted gold or silver, or gold and silver jewellery which is not used for wearing, must pay zakat on it every year. It is weighed and one-fortieth is taken, unless it falls short of twenty dinars of gold or two hundred dirhams of silver, in which case there is no zakat to pay. Zakat is paid only when jewellery is kept for purposes other than wearing. Bits of gold and silver or broken jewellery which the owner intends to mend to wear are in the same position as goods which are worn by their owner - no zakat has to be paid on them by the owner."

Malik said, "There is no zakat (to pay) on pearls, musk or amber."

Section: The Zakat on the Property of Orphans and Trading on their Behalf

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Book 17, Number 17.6.12:

Yahya related to me from Malik that he had heard that Umar ibn al-Khattab said, "Trade with the property of orphans and then it will not be eaten away by zakat."

Book 17, Number 17.6.13:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim that his father said, "A'isha used to look after me and one of my brothers - we were orphans - in her house, and she would take the zakat from our property."

Book 17, Number 17.6.14:

Yahya related to me from Malik that he had heard that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, used to give the property of the orphans that were in her house to whoever would use it to trade with on their behalf.

Book 17, Number 17.6.15:

Yahya related to me from Malik that Yahya ibn Said bought some property on

behalf of his brother's sons who were orphans in his house, and that that property was sold afterwards for a great deal of profit.

Malik said, "There is no harm in using the property of orphans to trade with on their behalf if the one in charge of them has permission. Furthermore, I do not think that he is under any liability."

Section: The Zakat on Inheritance

Book 17, Number 17.7.16:

Yahya related to me that Malik said, "I consider that if a man dies and he has not paid zakat on his property, then zakat is taken from the third of his property (from which he can make bequests), and the third is not exceeded and the zakat is given priority over bequests. In my opinion it is the same as if he had a debt, which is why I think it should be given priority over bequests."

Malik continued, "This applies if the deceased has asked for the zakat to be deducted. If the deceased has not asked for it to be deducted but his family do so then that is good, but it is not binding upon them if they do not do it."

Malik continued, "The sunna which we are all agreed upon is that zakat is not due from someone who inherits a debt (i.e. wealth that was owed to the deceased), or goods, or a house, or a male or female slave, until a year has elapsed over the price realised from whatever he sells (i.e. slaves or a house, which are not zakatable) or over the wealth he inherits, from the day he sold the things, or took possession of them."

Malik said, "The sunna with us is that zakat does not have to be paid on wealth that is inherited until a year has elapsed over it."

Section: The Zakat on Debts

Book 17, Number 17.8.17:

Yahya related to me from Malik from Ibn Shihab from as-Sa'ib ibn Yazid that Uthman ibn Affan used to say, "This is the month for you to pay your zakat. If you have any debts then pay them off so that you can sort out your wealth and take the zakat from it."

Book 17, Number 17.8.18:

Yahya related to me from Malik from Ayyub ibn Abi Tamima as-Sakhtayani that Umar ibn Abd al-Aziz, when writing about wealth that one of his governors had collected unjustly, ordered it to be returned to its owner and zakat to be taken from it for the years that had passed. Then shortly afterwards he revised his order with a message that zakat should only be taken from it once, since it was not wealth in hand.

Book 17, Number 17.8.19:

Yahya related to me from Malik from Yazid ibn Khusayfa that he had asked Sulayman ibn Yasar whether zakat was due from a man who had wealth in hand but also owed a debt for the same amount, and he replied, "No."

Malik said, "The position that we are agreed upon concerning a debt is that the lender of it does not pay zakat on it until he gets it back. Even if it stays with the borrower for a number of years before the lender collects it, the lender only has to pay zakat on it once. If he collects an amount of the debt which is not zakatable, and has other wealth which is zakatable, then what he has collected of the debt is added to the rest of his wealth and he pays zakat on the total sum."

Malik continued, "If he has no ready money other than that which he has collected from his debt, and that does not reach a zakatable amount, then he does not have to pay any zakat. He must, however, keep a record of the amount that he has collected and if, later, he collects another amount which, when added to what he has already collected, brings zakat into effect, then he has to pay zakat on it."

Malik continued, "Zakat is due on this first amount, together with what he has further collected of the debt owed to him, regardless of whether or not he has used up what he first collected. If what he takes back reaches twenty dinars of gold, or two hundred dirhams of silver he pays zakat on it. He pays zakat on anything else he takes back afte rthat, whether it be a large or small amount, according to the amount."

Malik said, "What shows that zakat is only taken once from a debt which is out of hand for some years before it is recovered is that if goods remain with a man for trading purposes for some years before he sells them, he only has to pay zakat on their prices once. This is because the one who is owed the debt, or owns the goods, should not have to take the zakat on the debt, or the goods, from anything else, since the zakat on anything is only taken from the thing itself, and not from anything else."

Malik said, "Our position regarding some onewho owes a debt, and has goods which are worth enough to pay off the debt, and also has an amount of ready money which is zakatable, is that he pays the zakat on the ready money which he has to hand. If, however, he only has enough goods and ready money to pay off the debt, then he does not have to pay any zakat. But if the ready money that he has reaches a zakatable amount over and above the amount of the debt that he owes, then he must pay zakat on it."

Section: The Zakat on Merchandise

Book 17, Number 17.9.20:

Yahya related to me from Malik from Yahya ibn Said that Zurayq ibn Hayyan, who was in charge of Egypt in the time of al-Walid, Sulayman, and Umar ibn Abd al-'Aziz, mentioned that Umar ibn Abd al-Aziz had written to him saying, "Assess the muslims that you come across and take from what is apparent of their wealth and whatever merchandise is in their charge, one dinar for every forty dinars, and the same proportion from what is less than that down to twenty dinars, and if the amount falls short of that by one third of a dinar then leave it and do not take anything from it. As for the people of the Book that you come across, take from the merchandise in their charge one dinar for every twenty dinars, and the same proportion from what is less than that down to ten dinars, and if the amount falls short by one third of a dinar leave it and do not take anything from it. Give them a receipt for what you have taken f rom them until the same time next year."

Malik said, "The position among us (in Madina) concerning goods which are being

managed for trading purposes is that if a man pays zakat on his wealth, and then buys goods with it, whether cloth, slaves or something similar, and then sells them before a year has elapsed over them, he does not pay zakat on that wealth until a year elapses over it from the day he paid zakat on it. He does not have to pay zakat on any of the goods if he does not sell them for some years, and even if he keeps them for a very long time he still only has to pay zakat on them once when he sells them."

Malik said, "The position among us concerning a man who uses gold or silver to buy wheat, dates, or whatever, for trading purposes and keeps it until a year has elapsed over it and then sells it, is that he only has to pay zakat on it if and when he sells it, if the price reaches a zakatable amount. This is therefore not the same as the harvest crops that a man reaps from his land, or the dates that he harvests from his palms."

Malik said, "A man who has wealth which he invests in trade, but which does not realise a zakatable profit for him, fixes a month in the year when he takes stock of what goods he has for trading, and counts the gold and silver that he has in ready money, and if all of it comes to a zakatable amount he pays zakat on it."

Malik said, "The position is the same for muslims who trade and muslims who do not. They only have to pay zakat once in any one year, whether they trade in that year or not."

Section: Wealth which has been Hidden Away (Kanz)

Book 17, Number 17.10.21:

Yahya related to me from Malik that Abdullah ibn Dinar said, "I heard Abdullah ibn Umar being asked what kanz was and he said, 'It is wealth on which zakat has not been paid.' "

Book 17, Number 17.10.22:

Yahya related to me from Malik from Abdullah ibn Dinar from Abu's-Salih as-Samman that Abu Hurayra used to say, "Anyone who has wealth on which he has not paid zakat will, on the day of rising, find his wealth made to resemble a whiteheaded serpent with a sac of venom in each cheek which will seek him out until it has him in its power, saying, 'I am the wealth that you had hidden away.' "

Section: The Zakat on Livestock

Book 17, Number 17.11.23:

Yahya related to me from Malik that he had read what Umar ibn al-Khattab had written about zakat, and in it he found:

"In the name of Allah, the Merciful, the ompassionate."

The Book of Zakat.

On twenty-four camels or less zakat is paid with sheep, one ewe for every five camels.

On anything above that, up to thirty-five camels, a she-camel in its second year,

and, if there is no she camel in its second year, a male camel in its third year.

On anything above that, up to forty-five camels, a she-camel in its third year.

On anything above that, up to sixty camels, a she camel in its fourth year that is ready to be sired.

On anything above that, up to seventy-five camels, a she-camel in its fifth year.

On anything above that, up to ninety camels, two she-camels in their third year.

On anything above that, up to one hundred and twenty camels, two she-camels in their fourth year that are ready to be sired.

On any number of camels above that, for every forty camels, a she-camel in its third year, and for every fifty, a she-camel in its fourth year.

On grazing sheep and goats, if they come to forty or more, up to one hundred and twenty head, one ewe.

On anything above that, up to two hundred head, two ewes.

On anything above that, up to three hundred, three ewes.

On anything above that, for every hundred, one ewe.

A ram should not be taken for zakat. nor an old or an injured ewe, except as the zakat-collector thinks fit.

Those separated should not be gathered together nor should those gathered together be separated in order to avoid paying zakat.

Whatever belongs to two associates is settled between them proportionately.

On silver, if it reaches five awaq (two hundred dirhams), one fortieth is paid."

Section: The Zakat on Cattle

Book 17, Number 17.12.24:

Yahya related to me from Malik from Humayd ibn Qays al-Makki from Tawus al Yamani that from thirty cows, Muadh ibn Jabal took one cow in its second year, and from forty cows, one cow in its third or fourth year, and when less than that (i.e. thirty cows) was brought to him he refused to take anything from it. He said, "I have not heard anything about it from the Messenger of Allah, may Allah bless him and grant him peace. When I meet him, I will ask him." But the Messenger of Allah, may Allah bless him and grant him peace, died before Muadh ibn Jabal returned.

Yahya said that Malik said, "The best that I have heard about some one who has sheep or goats with two or more shepherds in different places is that they are added together and the owner then pays the zakat on them. This is the same situation as a man who has gold and silver scattered in the hands of various people. He must add it all u p and pay whatever zakat there is to pay on the sum total."

Yahya said that Malik said, about a man who had both sheep and goats, that they were added up together for the zakat to be assessed, and if between them they came to a number on which zakat was due, he paid zakat on them. Malik added, "They

are all considered as sheep, and in Umar ibn al-Khattab's book it says, 'On grazing sheep and goats, if they come to forty or more, one ewe.' "

Malik said, "If there are more sheep than goats and their owner only has to pay one ewe, the zakat collector takes the ewe from the sheep. If there are more goats than sheep, he takes it from the goats. If there is an equal number of sheep and goats, he takes the ewe from whichever kind he wishes."

Yahya said that Malik said, "Similarly, Arabian camels and Bactrian camels are added up together in order to assess the zakat that the owner has to pay. They are all considered as camels. If there are more Arabian camels than Bactrians and the owner only has to pay one camel, the zakat collector takes it from the Arabian ones. If, however, there are more Bactrian camels he takes it from those. If there is an equal number of both, he takes the camel from whichever kind he wishes."

Malik said, "Similarly, cows and water buffaloes are added up together and are all considered as cattle. If there are more cows than water buffalo and the owner only has to pay one cow, the zakat collector takes it from the cows. If there are more water buffalo, he takes it from them. If there is an equal number of both, he takes the cow from whichever kind he wishes. So if zakat is necessary, it is assessed taking both kinds as one group."

Yahya said that Malik said, "No zakat is due from anyone who comes into possession of livestock, whether camels or cattle or sheep and goats, until a year has elapsed over them from the day he acquired them, unless he already had in his possession a nisab of livestock. (The nisab is the minimum amount on which zakat has to be paid, either five head of camels, or thirty cattle, or forty sheep and goats). If he already had five head of camels, or thirty cattle, or forty sheep and goats, and he then acquired additional camels, or cattle, or sheep and goats, either by trade, or gift, or inheritance, he must pay zakat on them when he pays the zakat on the livestock he already has, even if a year has not elapsed over the acquisition. And even if the additional livestock that he acquired has had zakat taken from it the day before he bought it, or the day before he inherited it, he must still pay the zakat on it when he pays the zakat on the livestock he already has "

Yahya said that Malik said, "This is the same situation as some one who has some silver on which he pays the zakat and then uses to buy some goods with from somebody else. He then has to pay zakat on those goods when he sells them. It could be that one man will have to pay zakat on them one day, and by the following day the other man will also have to pay."

Malik said, in the case of a man who had sheep and goats which did not reach the zakatable amount, and who then bought or inherited an additional number of sheep and goats well above the zakatable amount, that he did not have to pay zakat on all his sheep and goats until a year had elapsed over them from the day he acquired the new animals, whether he bought them or inherited them.This was because none of the livestock that a man had, whether it be camels, or cattle, or sheep and goats, was counted as a nisab until there was enough of any one kind for him to have to pay zakat on it. This was the nisab which is used for assessing the zakat on what the owner had additionally acquired, whether it were a large or small amount of livestock.

Malik said, "If a man has enough camels, or cattle, or sheep and goats, for him to have to pay zakat on each kind, and then he acquires another camel, or cow, or

sheep, or goat, it must be included with the rest of his animals when he pays zakat on them "

Yahya said that Malik said, "This is what I like most out of what I heard about the matter."

Malik said, in the case of a man who does not have the animal required of him for the zakat, "If it is a two-year-old she-camel that he does not have, a three-year-old male camel is taken instead. If it is a three- or four- or five-year-old she-camel that he does not have, then he must buy the required animal so that he gives the collector what is due. I do not like it if the owner gives the collector the equivalent value."

Malik said, about camels used for carrying water, and cattle used for working water-wheels or ploughing, "In my opinion such animals are included when assessing zakat."

Section: The Zakat of Associates

Book 17, Number 17.13.25:

Yahya said that Malik said, concerning two associates, "If they share one herdsman, one male animal, one pasture and one watering place then the two men are associates, as long as each one of them knows his own property from that of his companion If someone cannot tell his property apart from that of his fellow, he is not an associate, but rather, a co-owner "

Malik said, "It is not obligatory for both associates to pay zakat unless both of them have a zakatable amount (of livestock). If, for instance, one of the associates has forty or more sheep and goats and the other has less than forty sheep and goats, then the one who has forty has to pay zakat and the one who has less does not. If both of them have a zakatable amount (of livestock) then both of them are assessed together (i.e the flock is assessed as one) and both of them have to pay zakat. If one of them has a thousand sheep, or less, that he has to pay zakat on, and the other has forty, or more, then they are associates, and each one pays his contribution according to the number of animals he has - so much from the one with a thousand, and so much from the one with forty.

Malik said, "Two associates in camels are the same as two associates in sheep and goats, and, for the purposes of zakat, are assessed together if each one of them has a zakatable amount (of camels). That is because the Messenger of Allah, may Allah bless him and grant him peace, said, 'There is no zakat on less than five head of camels,' and Umar ibn al-Khattab said, 'On grazing sheep and goats, if they come to forty or more - one ewe.' "

Yahya said that Malik said, "This is what I like most out of what I have heard about the matter."

Malik said that when Umar ibn al-Khattab said, "Those separated should not be gathered together nor should those gathered together be separated in order to avoid paying zakat," what he meant was the owners of livestock.

Malik said, "What he meant when he said, 'Those separated should not be gathered together' is, for instance, that there is a group of three men, each of whom has forty sheep and goats, and each of whom thus has to pay zakat. Then, when the zakat

collector is on his way ,they gather their flocks together so that they only owe one ewe between them. This they are forbidden to do. What he meant when he said, 'nor should those gathered together be separated,' is, for instance, that there are two associates, each one of whom has a hundred and one sheep and goats, and each of whom must therefore pay three ewes. Then, when the zakat collector is on his way, they split up their flocks so that they only have to pay one ewe each. This they are forbidden to do. And so it is said, 'Those separated should not be gathered together nor should those gathered together be separated in order to avoid paying zakat.' "

Malik said, "This is what I have heard about the matter."

Section: Counting Lambs and Kids when Assessing Zakat

Book 17, Number 17.14.26:

Yahya related to me from Malik from Thawr ibn Zayd ad-Dili from a son of Abdullah ibn Sufyan ath-Thaqafi from his grandfather Sufyan ibn Abdullah that Umar ibn al-Khattab once sent him to collect zakat. He used to include sakhlas (when assessing zakat), and they said, "Do you include sakhlas even though you do not take them (as payment)?" He returned to Umar ibn al-Khattab and mentioned that to him and Umar said, "Yes, you include a sakhla which the shepherd is carrying, but you do not take it. Neither do you take an akula, or a rubba, or a makhid, or male sheep and goats in their second and third years, and this is a just compromise between the young of sheep and goats and the best of them."

Malik said, "A sakhla is a newborn lamb or kid. A rubba is a mother that is looking after her offspring, a makhid is a pregnant ewe or goat, and an akula is a sheep or goat that is being fattened for meat."

Malik said, about a man who had sheep and goats on which he did not have to pay any zakat, but which increased by birth to a zakatable amount on the day before the zakat collector came to them, "If the number of sheep and goats along with their (newborn) offspring reaches a zakatable amount then the man has to pay zakat on them. That is because the offspring of the sheep are part of the flock itself. It is not the same situation as when some one acquires sheep by buying them, or is given them, or inherits them. Rather, it is like when merchandise whose value does not come to a zakatable amount is sold, and with the profit that accrues it then comes to a zakatable amount. The owner must then pay zakat on both his profit and his original capital, taken together. If his profit had been a chance acquisition or an inheritance he would not have had to pay zakat on it until one year had elapsed over it from the day he had acquired it or inherited it."

Malik said, "The young of sheep and goats are part of the flock, in the same way that profit from wealth is part of that wealth. There is, however, one difference, in that when a man has a zakatable amount of gold and silver, and then acquires an additional amount of wealth, he leaves aside the wealth he has acquired and does not pay zakat on it when he pays the zakat on his original wealth but waits until a year has elapsed over what he has acquired from the day he acquired it. Whereas a man who has a zakatable amount of sheep and goats, or cattle, or camels, and then acquires another camel, cow, sheep or goat, pays zakat on it at the same time that he pays the zakat on the others of its kind, if he already has a zakatable amount of livestock of that particular kind."

Malik said, "This is the best of what I have heard about this. "

Section: What to do about the Zakat when Two Years are Assessed together

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Book 17, Number 17.15.27:

Yahya said that Malik said, "The position with us concerning a man who has zakat to pay on one hundred camels but then the zakat collector does not come to him until zakat is due for a second timeand by that time all his camels have died except five, is that the zakat collector assesses from the five camels the two amounts of zakat that are due from the owner of the animals, which in this case is only two sheep, one for each year. This is because the only zakat which an owner of livestock has to pay is what is due from him on the day that the zakat is (actually) assessed. His livestock may have died or it may have increased, and the zakat collector only assesses the zakat on what he (actually) finds on the day he makes the assessment. If more than one payment of zakat is due from the owner of the livestock, he still only has to pay zakat according to what the zakat collector (actually) finds in his possession, and if his livestock has died, or several payments of zakat are due from him and nothing is taken until all his livestock has died, or has been reduced to an amount below that on which he has to pay zakat, then he does not have to pay any zakat, and there is no liability (on him) for what has died or for the years that have passed.

Section: The Prohibition against Making Things Difficult for People when Taking Zakat

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Book 17, Number 17.16.28:

Yahya related to me from Malik from Yahya ibn Said from Muhammad ibn Yahya ibn Habban from al-Qasim ibn Muhammad that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "Sheep from the zakat were brought past Umar ibn al-Khattab and he saw amongst them a sheep with a large udder, ready to give milk, and he said, 'What is this sheep doing here?' and they replied, 'It is one of the sheep from the zakat.' Umar said, 'The owners did not give this sheep willingly. Do not subject people to trials. Do not take from the muslims those of their animals which are the best food-producers.' "

Book 17, Number 17.16.29:

Yahya related to me from Malik from Yahya ibn Said that Muhammad ibn Yahya ibn Habban said, "Two men from the Ashja tribe told me that Muhammad ibn Maslama al-Ansari used tocome to them to collect their zakat, and he would say to anyone who owned livestock, 'Select (the animal for) the zakat on your livestock and bring it to me,' and he would accept any sheep that was brought to him provided it met the requirements of what the man owed."

Malik said, "The sunna with us, and what I have seen the people of knowledge doing in our city, is that things are not made difficult for the muslims in their paying zakat, and whatever they offer of their livestock is accepted from them."

Section: Receiving Zakat, and Who is Permitted to Receive It

Book 17, Number 17.17.30:

Yahya related to me from Zayd ibn Aslam from Ata ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Zakat is not permissible for someone who is not in need except for five: someone fighting in the way of Allah, someone who collects zakat, someone who has suffered (financial) loss (at the hands of debtors), someone who buys it with his own money, and some one who has a poor neighbour who receives some zakat and gives some as a present to the one who is not in need."

Malik said, "The position with us concerning the dividing up of zakat is that it is up to the individual judgement of the man in charge (wali). Whichever categories of people are in most need and are most numerous are given preference, according to how the man in charge sees fit. It is possible that that may change after one year, or two, or more, but it is always those who are in need and are most numerous that are given preference, whatever category they may belong to. This is what I have seen done by people of knowledge with which I am satisifed."

Malik said, "There is no fixed share for the collector of the zakat, except according to what the imam sees fit."

Section: Collecting Zakat and Being Firm In Doing So

Book 17, Number 17.18.31:

Yahya related to me from Malik that he had heard that Abu Bakr as-Siddiq said, "If they withhold even a hobbling cord I will fight them over it."

Book 17, Number 17.18.32:

Yahya related to me from Malik that Zayd ibn Aslam said, "Umar ibn al Khattab drank some milk which he liked (very much) and he asked the man who had given it to him, 'Where did this milk come from?' The man told him that he had come to a watering-place, which he named, and had found grazing livestock from the zakat watering there. He was given some of their milk, which he then put into his water-skin, and that was the milk in question. Umar ibn al-Khattab then put his hand into his mouth to make himself vomit."

Malik said, "The position with us is that if anyone refuses to honour one of the obligatory demands of Allah, and the muslims are unable to get it, then they have the right to fight him until they get itfrom him."

Book 17, Number 17.18.33:

Yahya related to me from Malik that he had heard that one of the administrators of Umar ibn Abd al-'Aziz wrote to him mentioning that a man had refused to pay zakat on his property. Umar wrote to the administrator and told him to leave the man alone and not to take any zakat from him when he took it from the other muslims. The man heard about this and the situation became unbearable for him, and after that he paid the zakat on his property. The administrator wrote to Umar and mentioned that to him, and Umar wrote back telling him to take the zakat from him.

Section: The Zakat on Estimated Yields of Date Palms and Vines

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Book 17, Number 17.19.34:

Yahya related to me from Malik from a reliable source from Sulayman ibn Yasar and from Busr ibn Said that the Messenger of Allah, may Allah bless him and grant him peace, said, "On land that is watered by rain or springs or any natural means there is (zakat to pay of) a tenth. On irrigated land there is (zakat of) a twentieth (to pay)."

Book 17, Number 17.19.35:

Yahya related to me from Malik from Ziyad ibn Sad that Ibn Shihab said, "Neither jurur, nor musran al-fara, nor adhq ibn hubayq should be taken as zakat from dates. They should be included in the assessment but not taken as zakat. "

Malik said, "This is the same as with sheep and goats, whose young are included in the assessment but are not (actually) taken as zakat. There are also certain kinds of fruit which are not taken as zakat, such as burdi dates (one of the finest kinds of dates), and similar varieties.

Neither the lowest quality (of any property) nor the highest should be taken. Rather, zakat should be taken from average quality property."

Malik said, "The position that we are agreed upon concerning fruit is that only dates and grapes are estimated while on the tree. They are estimated when their usability is clear and they are halal to sell. This is because the fruit of date-palms and vines is eaten straightaway in the form of fresh dates and grapes, and so the assessment is done by estimation to make things easier for people and to avoid causing them trouble. Their produce is estimated and then they are given a free hand in using their produce as they wish, and later they pay the zakat on it according to the estimation that was made."

Malik said, "crops which are not eaten fresh, such as grains and seeds, which are only eaten after they have been harvested, are not estimated. The owner, after he has harvested, threshed and sifted the crop, so that it is then in the form of grain or seed, has to fulfil his trust himself and deduct the zakat he owes if the amount is large enough for him to have to pay zakat. This is the position that we are all agreed upon here (in Madina)."

Malik said, "The position that we are all agreed upon here (in Madina) is that the produce of date palms is estimated while it is still on the tree, after it has ripened and become halal to sell, and the zakat on it is deducted in the form of dried dates at the time of harvest. If the fruit is damaged after it has been estimated and the damage affects all the fruit then no zakat has to be paid. If some of the fruit remains unaffected, and this fruit amounts to five awsuq or more using the sa of the Prophet, may Allah bless him and grant him peace, then zakat is deducted from it. Zakat does not have to be paid, however, on the fruit that was damaged . Grapevines are dealt with in the same way.

If a man owns various pieces of property in various places, or is a co-owner of various pieces of property in various places, none of which individually comes to a zakatable amount, but which, when added together, do come to a zakatable amount, then he adds them together and pays the zakat that is due on them ."

Section: The Zakat on Seeds and Olives

Book 17, Number 17.20.36:

Yahya related to me from Malik that he asked Ibn Shihab about olives and he said, "There is a tenth on them."

Malik said, "The tenth that is taken from olives is taken after they have been pressed, and the olives must come to a minimum amount of five awsuq and there must be at least five awsuq of olives. If there are less than five awsuq of olives, no zakat has to be paid.

Olive trees are like date palms insofar as there is a tenth on whatever is watered by rain or springs or any natural means, and a twentieth on whatever is irrigated. However, olives are not estimated while on the tree. The sunna with us as far as grain and seeds which people store and eat is concerned is that a tenth is taken from whatever has been watered by rain or springs or any natural means, and a twentieth from whatever has been irrigated, that is, as long as the amount comes to five awsuq or more using the aforementioned sa, that is, the sa of the Prophet, may Allah bless him and grant him peace. Zakat must be paid on anything above five awsuq according to the amount involved."

Malik said, "The kinds of grain and seeds on which there is zakat are: wheat, barley, sult (a kind of barley), sorghum, pearl millet, rice, lentils, peas, beans, sesame seeds and other such grains and seeds which are used for food. Zakat is taken from them after they have been harvested and are in the form of grai n or seed." He said, "People are entrusted with the assessment and whatever they hand over is accepted ."

Malik was asked whether the tenth or the twentieth was taken out of olives before they were sold or after and he said, "The sale is not taken into consideration. It is the people who produce the olives that are asked about the olives, just as it is the people who produce foodstuffs that are asked about it, and zakat is taken from them by what they say. Someone who gets five awsuq or more of olives from his olive trees has a tenth taken from the oil after pressing. Whereas someone who does not get five awsuq from his trees does not have to pay any zakat on the oil."

Malik said, "Someone who sells his crops when they are ripe and are ready in the husk has to pay zakat on them but the one who buys them does not. The sale of crops is not valid until they are ready in the husk and no longer need water."

Malik said, concerning the word of Allah the Exalted, "And give its due on the day of its harvesting," that it referred to zakat, and that he had heard people saying that.

Malik said, "If someone sells his garden or his land, on which are crops or fruit which have not yet ripened, then it is the buyer who has to pay the zakat. If, however, they have ripened, it is the seller who has to pay the zakat, unless paying the zakat is one of the conditions of the sale."

Section: Fruit on which Zakat does Not have to be Paid

Book 17, Number 17.21.37:

Malik said, "If a man has four awsuq of dates he has harvested, four awsuq of grapes he has picked, or four awsuq of wheat he has reaped or four awsuq of pulses he has harvested, the different categories are not added together, and he does not have to pay zakat on any of the categ ries - the dates, the grapes, the wheat or the pulses - until any one of them comes to five awsuq using the sa of the Prophet, may

Allah bless him and grant him peace, as the Messenger of Allah, may Allah bless him and grant him peace, said, 'There is no zakat (to pay) on anything less than five awsuq of dates. 'lf any of the categories comes to five awsuq, then zakat must be paid. If none of the categories comes to five awsuq, then there is no zakat to pay. The explanation of this is that when a man harvests five awsuq of dates (from his palms), he adds them all together and deducts the zakat from them even if they are all of different kinds and varieties. It is the same with different kinds of cereal, such as brown wheat, white wheat, barley and sult, which are all considered as one category. If a man reaps five awsuq of any of these, he adds it all together and pays zakat on it. If it does not come to that amount he does not have to pay any zakat. It is the same (also) with grapes, whether they be black or red. If a man picks five awsuq of them he has to pay zakat on them, but if they do not come to that amount he does not have to pay any zakat. Pulses also are considered as one category, like cereals, dates and grapes, even if they are of different varieties and are called by different names. Pulses include chick-peas, lentils, beans, peas, and anything which is agreed by everybody to be a pulse. If a man harvests five awsuq of pulses, measuring by the aforementioned sa, the sa of the Prophet, may Allah bless him and grant him peace, he collects them all together and must pay zakat on them, even if they are of every kind of pulse and not just one kind."

Malik said, "Umar ibn al-Khattab drew a distinction between pulses and wheat when he took zakat from the Nabatean christians. He considered all pulses to be one category and took a tenth from them, and from cereals and raisins he took a twentieth."

Malik said, "If some one asks, 'How can pulses be added up all together when assessing the zakat so that there is just one payment, when a man can barter two of one kind for one of another, while cereals can not be bartered at a rate of two to one?', then tell him, 'Gold and silver are collected together when assessing the zakat, even though an amount of gold dinars can be exchanged for many times tha tamount of silver dirhams.' "

Malik said, regarding date palms which are shared equally between two men, and from which eight awsuq of dates are harvested, "They do not have to pay any zakat on them. If one man owns five awsuq of what is harvested from one piece of land, and the other owns four awsuq or less, the one who owns the five awsuq has to pay zakat, and the other one, who harvested four awsuq or less, does not have to pay zakat. This is how things are done whenever there are associates in any crop, whether the crop is grain or seeds that are reaped, or dates that are harvested, or grapes that are picked . Any one of them that harvests five awsuq of dates, or picks five awsuq of grapes, or reaps five awsuq of wheat, has to pay zakat, and whoever's portion is less than five awsuq does not have to pay zakat. Zakat only has to be paid by someone whose harvesting or picking or reaping comes to five awsuq."

Malik said, "The sunna with us regarding anything from any of these categories, i.e. wheat, dates, grapes and any kind of grain o rseed, which has had the zakat deducted from it and is then stored by its owner for a number of years after he has paid the zakat on it until he sell sit, is that he does not have to pay any zakat on the price he sells it for until a year has elapsed over it from the day he made the sale, as long as he got it through (chance) acquisition or some other means and it was not intended for trading. Cereals, seeds and trade-goods are the same, in that if a man acquires some and keeps them for a number of years and then sells them for gold or silver, he does not have to pay zakat on their price until a year has elapsed over it

from the day of sale. If, however, the goods were intended for trade then the owner must pay zakat on them when he sells them, as long as he has had them for a year from the day when he paid zakat on the property with which he bought them."

Section: Fruits, Animal Fodder and Vegetables for which No Zakat has to be Paid

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Book 17, Number 17.22.37a:

Malik said, "The sunna that we are all agreed upon here (in Madina) and which I have heard from the people of knowledge, is that there is no zakat on any kind of fresh (soft) fruit, whether it be pomegranates, peaches, figs or anything that is like them or not like them as long as it is fruit."

He continued, "No zakat has to be paid on animal fodder or herbs and vegetables of any kind, and there is no zakat to pay on the price realised on their sale until a year has elapsed over it from the day of sale which counts as the time the owner receives the sum."

Section: The Zakat on Slaves, Horses and Honey

Book 17, Number 17.23.38:

Yahya related to me from Malik from Abdullah ibn Umar from Sulayman ibn Yasar from Irak ibn Malik from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "A muslim does not have to pay any zakat on his slave or his horse."

Book 17, Number 17.23.39:

Yahya related to me from Malik from Ibn Shihab from Sulayman ibn Yasar that the people of Syria said to Abu Ubayda ibn al-Jarrah, "Take zakat from our horses and slaves," and he refused. Then he wrote to Umar ibn al-Khattab and he (also) refused. Again they talked to him and again he wrote to Umar, and Umar wrote back to him saying, "If they want, take it from them and (then) give it back to them and give their slaves provision."

Malik said, "What he means, may Allah have mercy upon him, by the words 'and give it back to them' is, 'to their poor.' "

Book 17, Number 17.23.40:

Yahya related to me from Malik that Abdullah ibn Abi Bakr ibn Amr ibn Hazim said, "A message came from Umar ibn Abd al-Aziz to my father when he was in Mina telling him not to take zakat from either honey or horses."

Book 17, Number 17.23.41:

Yahya related to me from Malik that Abdullah ibn Dinar said, "I asked Said ibn al-Musayyab about zakat on work-horses, and he said, 'Is there any zakat on horses ?' "

Section: Jizya on People of the Book and Magians

Book 17, Number 17.24.42:

Yahya related to me from Malik that Ibn Shihab said, "I have heard that the Messenger of Allah, may Allah bless him and grant him peace, took jizya from the magians of Bahrain, that Umar ibn al-Khattab took it from the magians of Persia and that Uthman ibn Affan took it from the Berbers."

Book 17, Number 17.24.43:

Yahya related to me from Malik from Jafar ibn Muhammad ibn Ali from his father that Umar ibn al-Khattab mentioned the magians and said, "I do not know what to do about them." Abd ar-Rahman ibn Awf said, "I bear witness that I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'Follow the same sunna with them that you follow with the people of the Book . ' "

Book 17, Number 17.24.44:

Yahya related to me from Malik from Nafi from Aslam, the mawla of Umar ibn al-Khattab, that Umar ibn al-Khattab imposed a jizya tax of four dinars on those living where gold was the currency, and forty dirhams on those living where silver was the currency. In addition, they had to provide for the muslims and receive them as guests for three days.

Book 17, Number 17.24.45:

Yahya related to me from Malik from Zayd ibn Aslam from his father that he said to Umar ibn al-Khattab, "There is a blind she-camel behind the house," soUmar said, "Hand it over to a household so that they can make (some) use of it." He said, "But she is blind." Umar replied, "Then put it in a line with other camels." He said, "How will it be able to eat from the ground?" Umar asked, "Is it from the livestock of the jizya or the zakat?" and Aslam replied, "From the livestock of the jizya." Umar said, "By AIIah, you wish to eat it." Aslam said, "It has the brand of the jizya on it." So Umar ordered it to be slaughtered. He had nine platters, and on each of the platters he put some of every fruit and delicacy that there was and then sent them to the wives of the Prophet, may Allah bless him and grant him peace, and the one he sent to his daughter Hafsa was the last of them all, and if there was any deficiency in any of them it was in Hafsa's portion.

"He put meat from the slaughtered animal on the platters and sent them to the wives of the Prophet, may Allah bless him and grant him peace, and he ordered what was left of the meat of the slaughtered animal to be prepared. Then he invited the Muhajirun and the Ansar to eat it."

Malik said, "I do not think that livestock should be taken from people who pay the jizya except as jizya."

Book 17, Number 17.24.46:

Yahya related to me from Malik that he had heard that Umar ibn Abd al-Aziz wrote to his governors telling them to relieve any people who payed the jizya from paying the jizya if they became muslims.

Malik said, "The sunna is that there is no jizya due from women or children of people of the Book, and that jizya is only taken from men who have reached

puberty. The people of dhimma and the magians do not have to pay any zakat on their palms or their vines or their crops or their livestock. This is because zakat is imposed on the muslims to purify them and to be given back to their poor, whereas jizya is imposed on the people of the Book to humble them. As long as they are in the country they have agreed to live in, they do not have to pay anything on their property except the jizya. If, however, they trade in muslim countries, coming and going in them, a tenth is taken from what they invest in such trade. This is because jizya is only imposed on them on conditions, which they have agreed on, namely that they will remain in their own countries, and that war will be waged for them on any enemy of theirs, and that if they then leave that land to go anywhere else to do business they will haveto pay a tenth. Whoever among them does business with the people of Egypt, and then goes to Syria, and then does business with the people of Syria and then goes to Iraq and does business with them and then goes on to Madina, or Yemen, or other similar places, has to pay a tenth.

People of the Book and magians do not have to pay any zakat on any of their property, livestock, produce or crops. The sunna still continues like that. They remain in the deen they were in, and they continue to do what they used to do. If in any one year they frequently come and go in muslim countries then they have to pay a tenth every time they do so, since that is outside what they have agreed upon, and not one of the conditions stipulated for them. This is what I have seen the people of knowledge of our city doing."

Section: Tithes for the People of Dhimma

Book 17, Number 17.25.47:

Yahya related to me from Ibn Shihab from Salim ibn Abdullah from his father that Umar ibn al-Khattab used to take a twentieth from the cereals and olive oil of the Nabatean christians, intending by that to increase the cargo to Madina. He would take a tenth from pulses.

Book 17, Number 17.25.48:

Yahya related to me from Malik from Ibn Shihab that as-Sa'ib ibn Yazid said, "As a young man I used to work with Abdullah ibn Utba ibn Masud in the market of Madina in the time of Umar ibn al-Khattab and we used to take a tenth from the Nabateans."

Book 17, Number 17.25.49:

Yahya related to me from Malik that he had asked Ibn Shihab why Umar ibn al Khattab used to take a tenth from the Nabateans, and Ibn Shihab replied, "It used to be taken from them in the jahiliyya, and Umar imposed it on them."

Section: Selling Sadaqa and Taking it Back

Book 17, Number 17.26.50:

Yahya related to me from Zayd ibn Aslam that his father said that he had heard Umar ibn al-Khattab say, "I once gave a noble horse to carry somebody in the way of Allah, and the man neglected it. I wished to buy it back from him and I thought that he would sell it cheaply. I asked the Messenger of Allah, may Allah bless him

and grant him peace, about it and he said, 'Do not buy it, even if he gives it to you for one dirham, for someone who takes back his sadaqa is like a dog swallowing its own vomit.' "

Book 17, Number 17.26.51:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that Umaribnal-Khattab gave a horse to carry some one in the way of Allah, and then he wished to buy it back. So he asked the Messenger of Allah, may Allah bless him and grant him peace, about it, and he said, "Do not buy or take back your sadaqa."

Yahya said that Malik was asked about whether a man who gave some sadaqa, and then found it being offered back to him for sale by some one other than the man to whom he had given it, could buy it or not, and he said, "I prefer that he leaves it."

Section: Who Pays the Zakat al-Fitr

Book 17, Number 17.27.52:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to pay the zakat al-fitr for those slaves of his that were at Wadi'l-Qura and Khaybar.

Yahya related to me that Malik said, "The best that I have heard about the zakat al-fitr is that a man has to pay for every person that he is responsible for supporting and whom he must support. He has to pay forall his mukatabs, his mudabbars, and his ordinary slaves, whether they are present or absent, as long as they are muslim, and whether or not they are fortrade. However, he does not have to pay zakat on any of them that are not muslim."

Malik said, concerning a runaway slave, "I think that his master should pay the zakat fo rhim whether or not he knows where he is, if it has not been long since the slave ran away and his master hopes that he is still alive and will return. If it has been a long time since he ran away and his master has despaired of him returning then I do not think that he should pay zakat for him.'

Malik said, "The zakat al-fitr has to be paid by people living in the desert (i.e. nomadic people) just as it has to be paid by people living in villages (i.e. settled people), because the Messenger of Allah, may Allah bless him and grant him peace, made the zakat al-fitr at the end of Ramadan obligatory on every muslim, whether freeman or slave, male or female."

Book 17, Number 17.27.53:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, made the zakat of breaking the fast at the end of Ramadan obligatory on every muslim, whether freeman or slave, male or female, and stipulated it as a sa of dates or a sa of barley.

Book 17, Number 17.27.54:

Yahya related to me from Malik from Zayd ibn Aslam from lyad ibn Abdullah ibn Sad ibn Abi Sarh al-Amiri that he had heard Abu Said al-Khudri say, "We used to pay the zakat al-fitr with a sa of wheat, or a sa of barley, or a sa of dates, or a sa of dried sour milk, or a sa of raisins, using the sa of the Prophet, may Allah bless him

and grant him peace . "

Book 17, Number 17.27.55:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar would always pay the zakat al-fitr in dates, except once, when he paid it in barley.

Maliksaid, "Payment of all types of kaffara, of zakat al-fitr and of the zakat on grains for which a tenth or a twentieth is due, is made using the smaller mudd, which is the mudd of the Prophet, may Allah bless him and grant him peace, except in the case of dhihar divorce, when the kaffara is paid using the mudd of Hisham, which is the larger mudd."

Section: When to Send the Zakat al-Fitr

Book 17, Number 17.28.56:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to send the zakat al-fitr to the one with whom it was collected together two or three days before the day of breaking the fast.

Book 17, Number 17.28.57:

Yahya related to me that Malik had seen that the people of knowledge used to like to pay the zakat al-fitr after dawn had broken on the day of the Fitr before they went to the place of prayer.

Malik said, "There is leeway in this, if Allah wills, in that it can be paid either before setting out (for the prayer) on the day of Fitr or afterwards."

Section: People for Whom it is Not Obligatory to Pay the Zakat al-Fitr

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Book 17, Number 17.29.58:

Yahya related to me that Malik said, "A man does not have to pay zakat for the slaves of his slaves, or for some one employed by him, or for his wife's slaves, except for anyone who serves him and whose services are indispensable to him, in which case he must pay zakat. He does not have to pay zakat for any of his slaves that are kafir and have not become muslim, whether they be for trade or otherwise."

Translation of Malik's Muwatta, Book 18:

Fasting

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Section: Sighting the New Moon for Beginning and Ending the Fast of Ramadan

Book 18, Number 18.1.1:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, once mentioned Ramadan and said, "Do not begin the fast until you see the new moon, and do not break the fast (at the end of Ramadan) until you see it. If the new moon is obscured from you, then work out (when it should be)."

Book 18, Number 18.1.2:

Yahya related to me from Malik from Abdullah ibn Dinar from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "A month has twenty-nine days in it. Do not start the fast or break it until you see the new moon. If the new moon is obscured from you, then work out (when it should be)."

Book 18, Number 18.1.3:

Yahya related to me from Malik from Thawr ibn Zayd ad-Dili from Abdullah ibn Abbas that the Messenger of Allah, may Allah bless him and grant him peace, once mentioned Ramadan and said, "Do not start the fast or break it until you see the new moon. If the new moon is obscured from you, then complete a full thirty days."

Book 18, Number 18.1.4:

Yahya related to me from Malik that he had heard that once in the time of Uthman ibn Affan the new moon had been seen in the afternoon and Uthman did not break his fast until evening had come and the sun had set.

Yahya said that he had heard Malik say that some one who sees the new moon of Ramadan when he is on his own should start the fast and not break it if he knows that that day is part of Ramadan. He added, "Some one who sees the new moon of Shawwal when he is on his own does not break the fast, because people suspect the reliability of someone among them who breaks the fast. Such people should say, when they sight the new moon, 'We have seen the new moon.' Whoever sees the new moon of Shawwal during the day should not break his fast but should continue fasting for the rest of that day. This is because it is really the new moon of the night that is coming ."

Yahya said that he heard Malik say, "If people are fasting on the day of Fitr thinking that it is still Ramadan and then definite evidence comes to them that the new moon of Ramadan had been seen one day before they began to fast and that they are now into the thirty-first day, then they should break the fast on that day at

whatever time the news comes to them. However, they do not pray the id prayer if they hear the news after the sun has begun to decline."

Section: Making the Intention to Fast Before Dawn

Book 18, Number 18.2.5:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "Only some one who makes the intention to fast before dawn (actually) fasts."

Yahya related to me from Malik from Ibn Shihab that A'isha and Hafsa, the wives of the Prophet, may Allah bless him and grant him peace, also said that.

Section: Being Quick to Break the Fast

Book 18, Number 18.3.6:

Yahya related to me from Malik from Abu Hazim ibn Dinar from Sahl ibn Sad as Saidi that the Messenger of Allah, may Allah bless him and grant him peace, said, "People will remain in good as long as they are quick to break the fast."

Book 18, Number 18.3.7:

Yahya related to me from Malik from Abd ar-Rahman ibn Harmala al-Aslami from Said ibn al-Musayyab that the Messenger of Allah, may Allah bless him and grant him peace, said, "People will remain in good as long as they are quick to break the fast."

Book 18, Number 18.3.8:

Yahya related to me from Malik from Ibn Shihab from Humayd ibn Abd ar-Rahman that Umar ibn al-Khattab and Uthman ibn Affan would pray maghrib when they saw the night darkening, before they broke their fast, and that was during Ramadan.

Section: Fasting When Junub in the Morning during Ramadan

Book 18, Number 18.4.9:

Yahya related to me from Malik from Abdullah ibn Abd ar-Rahman ibn Mamar al-Ansari from Abu Yunus, the mawla of A'isha, from A'isha that she overheard a man standing at the door saying to the Messenger of Allah, may Allah bless him and grant him peace, "Messenger of Allah, I get up in the morning junub, in a state of major ritual impurity, and want to fast," and the Messenger of Allah, may Allah bless him and grant him peace, said, "I too get up in the morning junub and want to fast, so I do ghusl and fast." The man said to him, "You are not the same as us. Allah has forgiven you all your wrong actions that have gone before and those that have come after." The Messenger of Allah, may Allah bless him and grant him peace, got angry and said, "By Allah, I hope that I am the most fearful of you with respect to Allah and the most knowledgeable of you in how I have taqwa."

Book 18, Number 18.4.10:

Yahya related to me from Malik from Abd Rabbih ibn Said from Abu Bakr ibn Abd

ar-Rahman ibn al-Harith ibn Hisham from A'isha and Umm Salama, the wives of the Prophet, may Allah bless him and grant him peace, that the Prophet, may Allah bless him and grant him peace, used to get up in the morning junub from intercourse, not a dream, in Ramadan, and then he would fast."

Book 18, Number 18.4.11:

Yahya related to me from Malik from Sumayy, the mawla of Abu Bakr ibn Abd ar-Rahman ibn al-Harith ibn Hisham that he heard Abu Bakr ibn Abd ar-Rahman ibn al-Harith ibn Hisham say, "My father and I were with Marwan ibn al Hakam at the time when he was amir of Madina, and someone mentioned to him that Abu Hurayra used to say, 'If someone begins the morning junub, he has broken the fast for that day.' Marwan said, 'I swear to you, Abdar-Rahman, you must go to the two umm al muminin, A'isha and Umm Salama, and ask them about it.'

"Abd ar-Rahman went to visit A'isha and I accompanied him. He greeted her and then said, 'Umm al-muminin, we were with Marwan ibn al Hakam and someone mentioned to him that Abu Hurayra used to say that if some one had begun the morning junub, he had broken the fast for that day.' A'isha said, 'It is not as Abu Hurayra says Abd ar-Rahman. Do you dislike what the Messenger of Allah, may Allah bless him and grant him peace, used to do?', and Abd ar-Rahman said, 'No, by Allah.' A'isha said, 'I bear witness that the Messenger of Allah, may Allah bless him and grant him peace, used to get up in the morning junub from intercourse, not a dream, and would then fast for that day.' "

He continued, "Then we went and visited Umm Salama, and Abd ar-Rahman asked her about the same matter and she said the same as A'isha had said. Then we went off until we came to Marwan ibn al-Hakam Abd ar-Rahman told him what they had both said and Marwan said, 'I swear to you, Abu Muhammad, you must use the mount which is at the door, and go to Abu Hurayra, who is on his land at al Aqiq, and tell him this.' So Abd ar-Rahman rode off, and I went with him, until we came to Abu Hurayra. Abd ar-Rahman talked with him for a while, and then mentioned the matter to him, and Abu Hurayra said, 'I don't know anything about it. I was just told that by someone.'"

Book 18, Number 18.4.12:

Yahya related to me from Malik from Sumayy, the mawla of Abu Bakr, from Abu Bakr ibn Abd ar-Rahman that A'isha and Umm Salama, the wives of the Prophet, may Allah bless him and grant him peace, said, "The Messengerof Allah, may Allah bless him and grant him peace, used to get up in the morning junub from intercourse, not a dream, and would then fast."

Section: Permission for a Fasting Man to Kiss

Book 18, Number 18.5.13:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that a certain man kissed his wife while he was fasting in Ramadan. This made him very anxious, and so he sent his wife to the Prophet, may Allah bless him and grant him peace, to ask him about that for him. She went in and saw Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, and mentioned the matter to her, and Umm Salama told her that the Messenger of Allah, may Allah bless him

and grant him peace, used to kiss while he was fasting. So she went back and told her husband that, but it only made him find fault all the more and he said, "We are not like the Messenger of Allah, may Allah bless him and grant him peace. Allah makes permissible for the Messenger of Allah, may Allah bless him and grant him peace, whatever He wishes."

His wife then went back to Umm Salama and found the Messenger of Allah, may Allah bless him and grant him peace, with her. The Messenger of Allah, may Allah bless him and grant him peace, said, "What's the matter with this woman?", and Umm Salama told him. The Messenger of Allah, may Allah bless him and grant him peace, said, "Didn't you tell her that I do that myself?" and she said, "I told her, and she went to her husband and told him, but it only made him find fault all the more and say, 'We are not like the Messenger of Allah, may Allah bless him and grant him peace. Allah makes permissible for His Messenger, may Allah bless him and grant him peace, whatever He wishes.' " The Messenger of Allah, may Allah bless him and grant him peace, got angry and said, "By Allah, I am the one with the most taqwa of Allah of you all, and of you all the one who best knows His limits."

Book 18, Number 18.5.14:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, umm al-muminin, may Allah be pleased with her, said, "The Messenger of Allah, may Allah bless him and grant him peace, used to kiss certain of his wives when fasting," and then she laughed.

Book 18, Number 18.5.15:

Yahya related to me from Malik from Yahya ibn Said that Atika bint Zayd ibn Amr ibn Nufayl, the wife of Umar ibn al-Khattab, used to kiss Umar ibn al-Khattab's head while he was fasting, and he did not tell her not to.

Book 18, Number 18.5.16:

Yahya related to me from Malik from Abu'n-Nadr, the mawla of Umar ibn Ubaydullah that A'isha bint Talha told him that she was once with A'isha, the wife of the Prophet, may Allah bless him and grant him peace, and her husband, who was fasting, came and visited her there. (He was Abdullah ibn Abd ar-Rahman ibn Abi Bakras-Siddiq.) A'isha said to him, "What's stopping you from coming close to your wife and kissing her and joking with her?" He said, "Can I kiss her when I am fasting?" She said, "Yes."

Book 18, Number 18.5.17:

Yahya related to me from Malik from Zayd ibn Aslam that Abu Hurayra and Sad ibn Abi Waqqas used to say that someone who was fasting was allowed to kiss.

Section: Restraint in Kissing when Fasting

Book 18, Number 18.6.18:

Yahya related to me from Malik that he had heard that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, would say, when she mentioned that the Messenger of Allah, used to kiss while fasting, "And who among you is

more able to control himself than the Messenger of Allah, may Allah bless him and grant him peace?"

Yahya said that Malik said that Hisham ibn Urwa ibn az-Zubayr had said, "I do not think that kissing invites to good for people who are fasting."

Book 18, Number 18.6.19:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that Abdullah ibn Abbas was asked about people kissing while fasting and he said that he allowed it for old men but disapproved of it for young men.

Book 18, Number 18.6.20:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to forbid kissing and fondling for people who were fasting .

Section: Fasting while Travelling

Book 18, Number 18.7.21:

Yahya related to me from Malik from Ibn Shihab from Ubaydullah ibn Abdullah ibn Utba ibn Masud from Abdullah ibn Abbas that the Messenger of Allah, may Allah bless him and grant him peace, left for Makka in Ramadan during the year of the conquest, and fasted until he reached al-Kadid. He then broke the fast, and so everyone else did so as well. What people used to do was act according to whatever the Messenger of Allah, may Allah bless him and grant him peace, had done most recently.

Book 18, Number 18.7.22:

Yahya related to me from Malik from Sumayy, the mawla of Abu Bakr ibn Abd ar-Rahman, from Abu Bakr ibn Abd ar-Rahman from one of the companions of the Messenger of Allah, that the Messenger of Allah, may Allah bless him and grant him peace, ordered everyone to break the fast on the journey he made in the year of the conquest saying, "Be strong for your enemy," while the Messenger of Allah, may Allah bless him and grant him peace, kept on fasting. Abu Bakr said that the one who related this to him said, "I saw the Messenger of Allah, may Allah bless him and grant him peace, pouring water over his head at al-Arj, either from thirst or from the heat. Then some one said to the Messenger of Allah, may Allah bless him and grant him peace, 'Messenger of Allah, a group of people kept on fasting when you did.' Then when the Messenger of Allah was at al-Kadid, he asked for a drinking-bowl and drank, and everyone broke the fast."

Book 18, Number 18.7.23:

Yahya related to me from Malik from Humayd at-Tawil that Anas ibn Malik said, "We once travelled with the Messenger of Allah, may Allah bless him and grant him peace, in Ramadan, and those who were fasting did not find fault with those who were not, and those who were not fasting did not find fault with those who were."

Book 18, Number 18.7.24:

Yahya related to me from Malik from Hisham ibn Urwa from his father that Hamza ibn Amr al-Aslami once said to the Messenger of Allah, may Allah bless him and grant him peace, "Messenger of Allah, I am a man who fasts. Can I fast when travelling?" The Messenger of Allah, may Allah bless him and grant him peace, said, "If you want you can fast, and if you want you can break the fast."

Book 18, Number 18.7.25:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used not to fast while travelling.

Book 18, Number 18.7.26:

Yahya related to me from Malik that Hisham ibn Urwa said, "My father, Urwa, used to travel in Ramadan, and we would travel with him, and he used to fast while we would break the fast, and he would not tell us to fast."

Section: What to Do when Returning from a Journey in Ramadan or Intending to Travel in Ramadan

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Book 18, Number 18.8.27:

27 Yahya related to me from Malik that he had heard that Umar ibn al-Khattab, if he was travelling in Ramadan and knew that he would reach Madina at the begining of the day ,would do so fasting.

Yahya said that Malik said, "Someone who is travelling and knows that he will be reaching his people in the first part of the day, and then dawn breaks before he gets there, should be fasting when he gets there."

Malik said, "Someone who intends to go away (on a journey) in Ramadan, and then dawn breaks while he is still on his land before he has left, should fast that day."

Malik said that a man who returns from a journey in Ramadan and is not fasting may have sexual intercourse with his wife if he wishes, if she is not fasting and she has just become pure after her menses.

Section: The Kaffara (Making Amends) for Breaking the Fast in Ramadan

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Book 18, Number 18.9.28:

Yahya related to me from Malik from Ibn Shihab from Hunayd ibn Abd arRahman ibn Awf from Abu Hurayra that a man broke the fast in Ramadan and the Messenger of Allah, may Allah bless him and grant him peace, ordered him to make kaffara by freeing a slave, or fasting two consecutive months, or feeding sixty poor people, and he said, "I can't do it." Someone brought a large basket of dates to the Messenger of Allah, may Allah bless him and grant him peace, and he said, "Take this and give it away as sadaqa." He said, "Messenger of Allah, there is no-ne more needy than I am." The Messenger of Allah, may Allah bless him and grant him peace, laughed until his eye-teeth appeared, and then he said, "Eat them."

Book 18, Number 18.9.29:

Yahya related to me from Malik from Ata ibn Abdullah al-Khurasani that Said ibn

al-Musayyab said, "A bedouin came to the Messenger of Allah, may Allah bless him and grant him peace, beating his breast and tearing out his hair and saying, 'I am destroyed.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'Why is that?', and he said, 'I had intercourse with my wife while fasting in Ramadan.' The Messenger of Allah, may Allah bless him and grant him peace, asked him, 'Are you able to free a slave?', and the man said, 'No.' Then he asked him, 'Are you able to give away a camel?', and the man replied, 'No.' He said, 'Sit own,' and someone brought a large basket of dates to the Messenger of Allah, may Allah bless him and grant him peace, and he said to the man, 'Take this and give it away as sadaqa.' The man said, 'There is no one more needy than me,' and (the Messenger of Allah, may Allah bless him and grant him peace), said, 'Eat them, and fast one day for the day when you had intercourse.' "

Malik said that Ata said that he had asked Said ibn al-Musayyab how many dates there were in that basket, and he said, "Between fifteen and twenty sas."

Malik said, "I have heard people of knowledge saying that the kaffara specified by the Messenger of Allah, may Allah bless him and grant him peace, for a man who has intercourse with his wife during the day in Ramadan is not due from someone who, on a day when he is making up the fast of Ramadan, breaks his fast by having intercourse with his wife, or whatever. He only has to make up for that day."

Malik said, "This is what I like most out of what I have heard about the matter."

Section: Cupping a Man who is Fasting

Book 18, Number 18.10.30:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to be cupped while he was fasting. Nafi said, "He later stopped doing that, and would not be cupped when he was fasting until he had broken the fast."

Book 18, Number 18.10.31:

Yahya related to me from Malik from Ibn Shihab that Sad ibn Abi Waqqas and Abdullah ibn Umar used to be cupped while they were fasting.

Book 18, Number 18.10.32:

Yahya related to me from Malik from Hisham ibn Urwa that his father used to be cupped while he was fasting and he would not then break his fast. Hisham added, "I only ever saw him being cupped when he was fasting."

Malik said, "Cupping is only disapproved of for some one who is fasting out of fear that he will become weak and if it were not for that, it would not be disapproved of. I do not think that a man who is cupped in Ramadan and does not break his fast, owes anything, and I do not say that he has to make up for the day on which he was cupped, because cupping is only disapproved of for someone fasting if his fast is endangered. I do not think that someone who is cupped, and is then well enough to keep the fast until evening, owes anything, nor does he have to make up for that day."

Section: Fasting on the Day of Ashura (the 10th of Muharram)

Book 18, Number 18.11.33:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "The day of Ashura was a day the Quraysh used to fast in the jahiliyya, and the Messenger of Allah, may Allah bless him and grant him peace, used also to fast it during the jahiliyya. Then when the Messenger of Allah, may Allah bless him and grant him peace, came to Madina he fasted it and ordered that it be fasted. Then Ramadan was made obligatory, and that became the fard instead of Ashura, but whoever wanted to, fasted it, and whoever did not want to, did not fast it."

Book 18, Number 18.11.34:

Yahya related to me from Malik from Ibn Shihab that Humayd ibn Abd ar-Rahman ibn Awf heard Muawiya ibn Abi Sufyan say from the mimbar on the day of Ashura in the year in which he made the hajj, "People of Madina, where are your learned men? I heard the Messenger of Allah, may Allah bless him and grant him peace, say about this day, 'This is the day of Ashura, and fasting it has not been prescribed for you. I am fasting it, and whoever of you wants to fast it can do so, and whoever does not want to, does not have to.' "

Book 18, Number 18.11.35:

Yahya related to me from Malik that he had heard that Umar ibn al-Khattab had sent (the following message) to al-Harith ibn Hisham, "Tomorrow is the day of Ashura, so fast (it) and tell your family to fast (also)."

Section: Fasting the Days of Fitr and Adha and Fasting Continuously

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Book 18, Number 18.12.36:

Yahya related to me from Malik from Muhammad ibn Yahya ibn Habban from alAraj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, forbade fasting on two days, the day of Fitr and the day of Adha.

Book 18, Number 18.12.37:

Yahya related to me from Malik that he used to hear the people of knowledge say,"There is no harm in fasting continuously as long as one breaks the fast on the days on which the Messenger of Allah, may Allah bless him and grant him peace, forbade fasting, namely, the days of Mina, the day of Adha and the day of Fitr, according to what we have heard."

Malik said, "This is what I like most out of what I have heard about the matter."

Section: The Prohibition against Fasting for Two Days or More without Breaking the Fast in between (Wisal)

Book 18, Number 18.13.38:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, forbade fasting for two days or more without breaking the fast in between. They said, "But Messenger of Allah, you practise wisal." He replied, "I am not the same as you. I am fed and

given to drink."

Book 18, Number 18.13.39:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Beware of wisal. Beware of wisal." They said, "But you practise wisal, Messenger of Allah." He replied, "I am not the same as you. My Lord feeds me and gives me to drink."

Section: The Fasting of Someone who Kills by Mistake or Pronounces the Dhihar Form of Divorce

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Book 18, Number 18.14.40:

Yahya related to me, and I (myself) heard Malik say, "The best that I have heard about some one who has to fast for two consecutive months because of having killed someone by mistake or having pronounced the dhihar form of divorce, becoming very ill and having to break his fast, is that if he recovers from his illness and is strong enough to fast, he must not delay doing so. He continues his fast from where he left off.

Similarly, a woman who has to fast because of having killed some one by mistake should not delay resuming her fast when she has become pure after her period. She continues her fast from where she left off.

No one who, by the Book of Allah, has to fast for two consecutive months may break his fast except for a reason - illness or menstruation. He must not travel and break his fast."

Malik said, "This is the best that I have heard about the matter."

Section: What a Sick Man Does when Fasting

Book 18, Number 18.15.41:

Yahya said that he heard Malik say, "What I have heard from the people of knowledge is that if a man succumbs to an illness which makes fasting very difficult for him and exhausts him and wears him out, he can break his fast. This is the same as with a sick man in the prayer, who finds standing to be too difficult and exhausting, (and Allah knows better than the slave that it is an excuse for him and that it really cannot be described). If the man is in such a condition he prays sitting, and the deen of Allah is ease.

Allah has permitted a traveller to break the fast when travelling, and he has more strength for fasting than a sick man. Allah, the Exalted, says in His book, 'Whoever among you is ill or on a journey (must fast) a number of other days,' and Allah has thus permitted a traveller to break his fast when on a journey, and he is more capable of fasting than a sick man.

Section: The Vow to Fast, and Fasting for the Dead

Book 18, Number 18.16.42:

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab was asked whether a man who had vowed to fast a month could fast voluntarily, and Said said, "He should fulfil his vow before he does any voluntary fasting."

Malik said, "I have heard the same thing from Sulayman ibn Yasar."

Malik said, "If someone dies with an unfulfilled vow to free a slave or to fast or to give sadaqa or to give away a camel, and makes a bequest that his vow should be fulfilled from his estate, then the sadaqa or the gift of the camel are taken from one third of his estate. Preference is given to it over other bequests, except things of a similar nature, because by his vow it has become incumbent on him, and this is not the case with something he donates voluntarily. They (vows and voluntary donations) are settled from a limited one-third of his estate, and not from the whole of it, since if the dying man were free to dispose of all of his estate, he might delay settling what had become incumbent on him (i.e. his vows), so that when death came and the estate passed into the hands of his heirs, he would have bequeathed such things (i.e. his vows) that were not claimed by anyone (like debts). If that (i.e. to dispose freely of his property) were allowed him, he would delay these things (i.e. his vows) until when he was near death, he would designate them and they might take up all of his estate. He must not do that."

Book 18, Number 18.16.43:

Yahya related to me from Malik that he had heard that Abdullah ibn Umar used to be asked, "an some one fast for some one else, or do the prayer for some one else?" and he would reply, "No one can fast or do the prayer for anyone else."

Section: Making Up Days Missed in Ramadan, and the Kaffara

Book 18, Number 18.17.44:

Yahya related to me from Malik from Zayd ibn Aslam from his brother Khalid ibn Aslam that Umar ibn al-Khattab once broke thefast on a cloudy day thinking that evening had come and the sun had set. Then a man came to him and said, "Amir al-muminin, the sun has come out," and Umar said, "That's an easy matter. It was our deduction (ijtihad)."

Malik said, "According to what we think, and Allah knows best, what he was referring to when he said, 'That's an easy matter' was making up the fast, and how slight the effort involved was and how easy it was. He was saying (in effect), 'We will fast another day in its place.' "

Book 18, Number 18.17.45:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "Someone who breaks the fast in Ramadan because he is ill or travelling should make up the days he has missed consecutively."

Book 18, Number 18.17.46:

Yahya related to me from Malik from Ibr Shihab that Abdullah ibn Abbas and Abu Hurayra differed about making up days missed in Ramadan. One of them said that they were done separately and the other said that they were done consecutively. He did not know which one of them it was who said that they were done separately.

Book 18, Number 18.17.47:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "If some one makes himself vomit while he is fasting he has to make up a day, but if he cannot help vomiting he does not have to make up anything."

Book 18, Number 18.17.48:

Yahya related to me from Malik from Yahya ibn Said that he heard Said ibn al Musayyab being asked about making up days missed in Ramadan, and Said said, "What I like best is for days missed in Ramadan to be made up consecutively, and not separately."

Yahya said that he had heard Malik say, about some one who made up the days he had missed in Ramadan separately, that he did not have to repeat them. (What he had done) was enough for him. It was, however, preferable, if he did them consecutively.

Malik said, "Whoever eats or drinks thoughtlessly or forgetfully in Ramadan or during any other obligatory fast that he must do, has to fast another day in its place."

Book 18, Number 18.17.49:

Yahya related to me from Malik that Humayd ibn Oays al-Makki told him, "I was with Mujahid while he was performing tawaf around the Kaba, and a man came to him and asked whether the days (of fasting) for kaffara had to be fasted consecutively, or could they be split up. I said to him, 'Yes, they can be split up, if the person so wishes.' Mujahid said, 'He should not split them up, because in Ubayy ibn Kab's recitation they are referred to as three consecutive days.' "

Malik said, "What I like most is what Allah has specified in the Qur'an, that is, that they are fasted consecutively."

Malik was asked about a woman who began the day fasting in Ramadan and though it was outside of the time of her period, fresh blood (i.e. not menstrual blood) flowed from her. She then waited until evening to see the same, but did not see anything.Then, on the next day in the morning she had anotherflow, though less than the first. Then, some days before her period, the flow stopped completely. Malik was asked what she should do about her fasting and prayer, and he said, "This blood is like menstrual blood. When she sees it she should break her fast, and then make up the days she has missed. Then, when the blood has completely stopped, she should do ghusl and fast."

Malik was asked whether someone who became muslim on the last day of Ramadan had to make up all of Ramadan or whether he just had to make up the day when he became muslim, and he said, "He does not have to make up any of the days that have passed. He begins fasting from that day onwards. What I like most is that he makes up the day on which he became muslim."

Section: Making up forVoluntary Fasts (Broken)

Book 18, Number 18.18.50:

Yahya related to me from Malik from Ibn Shihab that A'isha and Hafsa, the wives of the Prophet, may Allah bless him and grant him peace, began fasting voluntarily one morning and then food was given to them and they broke their fast with it. Then the Messenger of Allah, may Allah bless him and grant him peace, came in. A'isha said, "Hafsa asked, anticipating me in speech - she took after her father Umar - 'Messenger of Allah, A'isha and I began the morning fasting voluntarily and then food was given us and we broke the fast with it.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'Fast another day in its place.' "

Yahya said that he heard Malik say, "Someone who eats or drinks out of neglect or forgetfulness during a voluntary fast does not have to repeat his fast, but he should continue fasting for the rest of the day in which he eats or drinks while voluntarily fasting, and not stop fasting. Someone to whom something unexpected happens which causes him to break his fast while he is fasting voluntarily does not have to repeat his fast if he has broken it for a reason, and not simply because he decided to break his fast. Just as I do not think that someone has to repeat a voluntary prayer if he has had to stop it because of some discharge which he could prevent and which meant that he had to repeat his wudu."

Malik said, "Once a man has begun doing any of the right actions (al-amal as-saliha) such as the prayer, the fast and the hajj, or similar right actions of a voluntary nature, he should not stop until he has completed it according to what the sunna for that action is. If he says the takbir he should not stop until he has prayed two rakas. If he is fasting he should not break his fast until he has completed that day's fast. If he goes into ihram he should not return until he has completed his hajj, and if he begins doing tawaf he should not stop doing so until he has gone around the Kaba seven times. He should not stop doing any of these actions once he has started them until he has completed them, except if something happens such as illness or some other matter by which a man is excused. This is because Allah, the Blessed and Exalted, says in His Book, 'And eat and drink until the white thread becomes clear to you from the black thread of dawn, (and) then complete the fast until night-time,' (Sura 2 ayat 187), and so he must complete his fast as Allah has said. Allah, the Exalted, (also) says, 'And complete the hajj and the umra forAllah,' and so if a man were to go into ihram for a voluntary hajj having done his one obligatory hajj (on a previous occasion), he could not then stop doing his hajj having once begun it and leave ihram while in the middle of his hajj. Anyone that begins a voluntary act must complete it once he has begun doing it, just as an obligatory act must be completed . This is the best of what I have heard."

Section: The Fidya (Compensation) of a Man who Breaks the Fast in Ramadan from Weakness

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Book 18, Number 18.19.51:

Yahya related to me from Malik that he had heard that Anas ibn Malik used to pay fidya when he had grown old and could no longer manage to do the fast.

Malik said, "I do not consider that to do so is obligatory, but what I like most is that a man does the fast when he is strong enough. Whoever pays compensation gives one mudd of food in place of every day, using the mudd of the Prophet, may Allah bless him and grant him peace."

Book 18, Number 18.19.52:

Yahya related to me from Malik that he had heard that Abdullah ibn Umar was asked about what a pregnant woman should do if the fast became difficult for her and she feared for her child, and he said, "She should break the fast and feed a poor man one mudd of wheat in place of every day, using the mudd of the Prophet, may Allah bless him and grant him peace."

Malik said, "The people of knowledge consider that she has to make up for each day of the fast that she misses as Allah, the Exalted and Glorified, says, 'And whoever of you is sick or on a journey should fast an equal number of other days, ' and they consider her pregnancy and her concern for her child as a sickness."

Book 18, Number 18.19.53:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim that his father used to say, "If someone has to make up for days not fasted in Ramadan and does not do them before the next Ramadan comes although he is strong enough to do so, he should feed a poor man with a mudd of wheat for every day that he has missed, and he has to fast the days he owes as well."

Yahya related to me from Malik that he had heard the same thing from Said ibn Jubayr.

Section: Making Up For Days Not Fasted in Ramadan in General

Book 18, Number 18.20.54:

Yahya related to me from Malik from Yahya ibn Said from Abu Salama ibn Abd ar-Rahman that he heard A'isha, the wife of the Prophet, may Allah bless him and grant him peace, say, "I used to have to make up days from Ramadan and not be able to do them until Shaban came."

Section: Fasting The "Day of Doubt"

Book 18, Number 18.21.55:

Yahya related to me from Malik that he had heard the people of knowledge telling people not to fast on the day in Shaban when there was doubt (about whether it was Shaban or Ramadan), if they intended by it the fast of Ramadan . They considered that whoever fasted on that day without having seen (the new moon) had to make up that day if it later became clear that it was part of Ramadan. They did not see any harm in voluntary fasting on that day.

Malik said, "This is what we do, and what I have seen the people of knowledge in our city doing."

Section: The Fast in General

Book 18, Number 18.22.56:

Yahya related to me from Malik from Abu'n Nadr, the mawla of Umar ibn Ubaydullah, from Abu Salama ibn Abd ar-Rahman that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "The Messenger of Allah, may Allah bless him and grant him peace, used to fast for so long that we thought he would never stop fasting, and he would go without fasting for so long that we

thought he would never fast again. I never saw the Messenger of Allah, may Allah bless him and grant him peace, fast for a complete month except for Ramadan, and I never saw him do more fasting in any one month than he did in Shaban.'

Book 18, Number 18.22.57:

Yahya related to me from Malik from Abu'z Zinad from al-A'raj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Fasting is a protection for you, so when you are fasting, do not behave obscenely or foolishly, and if any one argues with you or abuses you, say, 'I am fasting. I am fasting.' "

Book 18, Number 18.22.58:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "By the One in Whose hand my self is, the smell of the breath of a man fasting is better with Allah than the scent of musk.' He leaves his desires and his food and drink for My sake. Fasting is for Me and I reward it. Every good action is rewarded by ten times its kind, up to seven hundred times, except fasting, which is for Me, and I reward it.' "

Book 18, Number 18.22.59:

Yahya related to me from Malik from his paternal uncle Abu Suhayl ibn Malik from his father that Abu Hurayra said, "When Ramadan comes the gates of the Garden are opened and the gates of the Fire are locked, and the shayatin are chained."

Book 18, Number 18.22.60:

Yahya related to me from Malik that he had heard that the people of knowledge did not disapprove of people fasting using tooth-sticks at any hour of the day in Ramadan, whether at the beginning or the end, nor had he heard any of the people of knowledge disapproving of or forbidding the practice.

Yahya said that he heard Malik say, about fasting for six days after breaking the fast at the end of Ramadan, that he had never seen any of the people of knowledge and fiqh fasting them. He said, "I have not heard that any of our predecessors used to do that, and the people of knowledge disapprove of it and they are afraid that it might become a bida and that common and ignorant people might join to Ramadan what does not belong to it, if they were to think that the people of knowledge had given permission for that to be done and were seen doing it.

Yahya said that he heard Malik say, "I have never heard any of the people of knowledge and fiqh and those whom people take as an example forbidding fasting on the day of jumua. Fasting on it is good, and I have seen one of the people of knowledge fasting it, and it seemed to me that he was keen to do so."

Translation of Malik's Muwatta, Book 19:

I'tikaf in Ramadan

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Section: Mention of Iltikaf

Book 19, Number 19.1.1:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr from Amra bint Abd ar-Rahman that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said,"When the Messenger of Allah, may Allah bless him and grant him peace, did itikaf he would bring his head near to me and I would comb it. He would only go into the house to relieve himself."

Book 19, Number 19.1.2:

Yahya related to me from Malik from Ibn Shihab from Amra bint Abd ar-Rahman that when A'isha was doing itikaf she would only ask after sick people if she was walking and not if she was standing still.

Malik said, "A person doing itikaf should not carry out obligations of his, nor leave the mosque for them, nor should he help anyone. He should only leave the mosque to relieve himself. If he were able to go out to do things for people, visiting the sick, praying over the dead and following funeral processions would be the things with the most claim on his coming out."

Malik said, "A person doing itikaf is not doing itikaf until he avoids what some one doing itikaf should avoid, namely, visiting the sick, praying over the dead, and entering houses, except to relieve himself."

Book 19, Number 19.1.3:

Yahya related to me from Malik that he had asked Ibn Shihab whether someone doing itikaf could go into a house to relieve himself, and he said, "Yes, there is no harm in that."

Malik said, "The situation that we are all agreed upon here is that there is no disapproval of anyone doing itikaf in a mosque where jumua is held. The only reason I see for disapproving of doing itikaf in a mosque where jumua is not held is that the man doing itikaf would have to leave the mosque where he was doing itikaf in order to go to jumua, or else not go there at all. If, however, he is doing itikaf in a mosque where jumua is not held, and he does not have to go to jumua in any other mosque, then I see no harm in him doing itikaf there, because Allah, the Blessed and Exalted, says, 'While you are doing itikaf in mosques,' and refers to all mosques in general, without specifying any particular kind."

Malik continued, "Accordingly, it is permissiblefor a man to do itikaf in a mosque where jumua is not held if he does not have to leave it to go to a mosque where jumua is held."

Malik said, "A person doing itikaf should spend the night only in the mosque where

he is doing itikaf, except if his tent is in one of the courtyards of the mosque. I have never heard that someone doing itikaf can put up a shelter anywhere except in the mosque itself or in one of the courtyards of the mosque.

Part of what shows that he must spend the night in the mosque is the saying of A'isha, 'When the Messenger of Allah, may Allah bless him and grant him peace, was doing itikaf, he would only go into the house to relieve himself.' Nor should he do itikaf on the roof of the mosque or in the minaret."

Malik said, "The person who is going to do itikaf should enter the place where he wishes to do itikaf before the sun sets on the night when he wishes to begin his itikaf, so that he is ready to begin the itikaf at the beginning of the night when he is going to start his itikaf. A person doing itikaf should be occupied with his itikaf, and not turn his attention to other things which might occupy him, such as trading or whatever. There is no harm, however, if some one doing itikaf tells some one to do something for him regarding his estate, or the affairs of his family, or tells someone to sell some property of his, or something else that does not occupy him directly. There is no harm in him arranging for someone else to do that for him if it is a simple matter."

Malik said, "I have never heard any of the people of knowledge mentioning any modification as far as how to do itikaf is concerned. Itikaf is an act of ibada like the prayer, fasting, the hajj, and such like acts, whether they are obligatory or voluntary. Anyone who begins doing any of these acts should do them according to what has come down in the sunna. He should not start doing anything in them that the muslims have not done, whether it is a modification that he imposes on others, or one that he begins doing himself. The Messenger of Allah, may Allah bless him and grant him peace, practised itikaf, and the muslims know what the sunna of itikaf is."

Malik said, "Itikaf and jiwar are the same, and Itikaf is the same for a village-dweller as it is for a nomad."

Section: Things Without Which Itikaf is Not Possible

Book 19, Number 19.2.4:

Yahya related to me from Malik that he had heard that al-Qasim ibn Muhammad and Nafi, the mawla of Abdullah ibn Umar said, "You cannot do itikaf unless you are fasting, because of what Allah, the Blessed and Exalted, says in His Book, 'And eat and drink until the white thread becomes clear to you from the black thread of dawn, then complete the fast until night-time, and do not have intercourse with them while you are doing itikaf in mosques,' (Sura 2 ayat 187). Allah only mentions itikaf together with fasting."

Malik said, "That is what we go by here."

Section: Leaving Itikaf for the Id

Book 19, Number 19.3.5:

Yahya related to me that Ziyad ibn Abd ar-Rahman said, "Malik related to us from Sumayy, the mawla of Abu Bakr ibn Abd ar-Rahman, that Abu Bakr ibn Abd ar-Rahman was once doing itikaf and he would go out to relieve himself in a closed

room under a roofed passage in Khalid ibn Walid's house. Otherwise he did not leave his place of itikaf until he went to pray at the Id with the muslims."

Book 19, Number 19.3.6:

Yahya related to me from Ziyad from Malik that he saw some of the people of knowledge who, when they did itikaf in the last ten days of Ramadan, would not go back to their families until they had attended the Id al-Fitr with everybody.

Ziyad said that Malik said, "I heard this from the people of excellence who have passed away, and it is what I like most out of what I have heard about the matter."

Section: Making Up for the Itikaf (Not Done)

Book 19, Number 19.4.7:

Ziyad related to me from Malik from Ibn Shihab from Amra bint Abd ar-Rahman from A'isha that the Messenger of Allah, may Allah bless him and grant him peace, once wanted to do itikaf, and when he went off to the place where he wanted to do itikaf he found some tents there, which were A'isha's tent, Hafsa's tent, and Zaynab's tent. When he saw them he asked about them and someone told him that they were the tents of A'isha, Hafsa and Zaynab. The Messenger of Allah, may Allah bless him and grant him peace, said, "Do you think them devout?" Then he left, and did not do itikaf until Shawwal, when he then did it for ten days.

Book 19, Number 19.4.8:

Malik was asked whether someone who went into a mosque to do itikaf for the last ten days of Ramadan and stayed there for a day or two but then became ill and left the mosque, had to do itikaf for the number of days that were left from the ten, or not, and if he did have to do so, then what month should he do it in, and he replied, "He should make up whatever he has to do of the itikaf when he recovers, whether in Ramadan or otherwise. I have heard that the Messenger of Allah, may Allah bless him and grant him peace, once wanted to do itikaf in Ramadan, but then came back without having done so, and then when Ramadan had gone, he did itikaf for ten days in Shawwal.

Some one who does itikaf voluntarily in Ramadan and some one who has to do itikaf are in the same position regarding what is halal for them and what is haram. I have not heard that the Messenger of Allah, may Allah bless him and grant him peace, ever did itikaf other than voluntarily."

Malik said, that if a woman did itikaf and then menstruated during her itikaf, she went back to her house, and, when she was pure again she returned to the mosque, at whatever time it was that she became pure. She then continued her itikaf from where she left off. This was the same situation as with a woman who had to fast two consecutive months, and who menstruated and then became pure. She then continued the fast from where she had left off and did not delay doing so.

Book 19, Number 19.4.9:

Ziyad related to me from Malik from Ibn Shihab that the Messenger of Allah, may Allah bless him and grant him peace, used to go to relieve himself in houses.

Malik said, "Someone doing itikaf should not leave for his parents' funeral or for anything else."

Section: Marriage in Itikaf

Book 19, Number 19.5.9a:

Malik said, "There is no harm in someone who is in itikaf entering into a marriage contract as long as there is no physical relationship. A woman in itikaf may also be betrothed as long as there is no physical relationship. What is haram for someone in itikaf in relation to his womenfolk during the day is haram for him during the night."

Yahya said that Ziyad said that Malik said, "It is not halal for a man to have intercourse with his wife while he is in itikaf, nor for him to take pleasure in her by kissing her, or whatever. However, I have not heard anyone disapproving of a man, or woman, in itikaf getting married as long as there is no physical relationship. Marriage is not disapproved of for someone fasting."

"There is, however, a distinction between the marriage of someone in itikaf and that of someone who is muhrim, in that some one who is muhrim can eat, drink, visit the sick and attend funerals, but cannot put on perfume, whilst a man or woman in itikaf can put on oil and perfume and groom their hair, but cannot attend funerals or pray over the dead or visit the sick. Thus their situations with regard to marriage are different."

"This is the sunna as it has come down to us regarding marriage for those who are muhrim, doing itikaf, or fasting.

Section: Laylat al-Qadr

Book 19, Number 19.6.10:

Yahya related to me from Malik from Yazid ibn Abdullah ibn al-Hadi from Muhammad ibn Ibrahim al-Harith at-Taymi from Abu Salama ibn Abd ar-Rahman that Abu Said al-Khudri said, "The Messenger of Allah, may Allah bless him and grant him peace, used to do itikaf in the middle ten days of Ramadan. One year he was doing itikaf and then, when it came to the night of the twenty-first, which was the night before the morning when he would normally have finished his itikaf, he said, 'Whoever has done i'tikaf with me should continue doing itikaf for the last ten days. I saw a certain night and then I was made to forget it. I saw myself prostrating the following morning in water and clay. Look for it in the last ten days, and look for it on the odd days.' "

Abu Said continued, "The sky poured with rain that night and the mosque had a roof (made of palm fronds) and the mosque was soaked. With my own eyes I saw the Messenger of Allah, may Allah bless him and grant him peace, leave with traces of water and clay on his forehead and nose, in the morning after the night of the twenty-first."

Book 19, Number 19.6.11:

Ziyad related to me from Malik from Hisham ibn Urwa from his father that the Messenger of Allah, may Allah bless him and grant him peace, said, "Search for

Laylat al-Qadr in the last ten days of Ramadan."

Book 19, Number 19.6.12:

Ziyad related to me from Malik from Abdullah ibn Dinar from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said. "Search for Laylat al-Qadr in the last seven days."

Book 19, Number 19.6.13:

Ziyad related to me from Malik from Abu'n Nadr, the mawla of Umar ibn Ubaydullah, that Abdullah ibn Unays al-Juhani said to the Messenger of Allah, may Allah bless him and grant him peace, "Messenger of Allah, I am a man whose house is a long way away. Tell me one night so that I can stop my journey for it." The Messenger of Allah, may Allah bless him and grant him peace, said, "Stop on the twenty-third night of Ramadan."

Book 19, Number 19.6.14:

Ziyad related to me from Malik from Humayd at-Tawil that 'Anas ibn Malik said, "The Messenger of Allah, may Allah bless him and grant him peace, came out to us in Ramadan and said, 'I was shown a certain night in Ramadan and then two men abused each other and it was taken away. Look for it on the ninth and the seventh and the fifth.' "

Book 19, Number 19.6.15:

Ziyad related to me from Malik from Nafi from Ibn 'Umar that some of the companions of the Messenger of Allah, may Allah bless him and grant him peace, were shown Laylat al-Qadr in their sleep during the last seven days. The Messenger of Allah, may Allah bless him and grant him peace, said, "I see that your visions agree about the last seven days, so whoever is searching for it should do so in the last seven days."

Book 19, Number 19.6.16:

Ziyad related to me from Malik that he had heard a man he trusted of the people of knowledge say, "The Messenger of Allah, may Allah bless him and grant him peace, was shown the lifespans of the people (who had gone) before him, or what Allah willed of that, and it was as if the lives of the people of his community had become too short for them to be able to do as many good actions as others before them had been able to do with their long lives, so Allah gave him Laylat al-Qadr, which is better than a thousand months."

Book 19, Number 19.6.17:

Ziyad related to me from Malik that he had heard that Said ibn al-Musayyab used to say, "Whoever is present at isha on Laylat al-Qadr has taken his portion from it."

Translation of Malik's Muwatta, Book 20:

Hajj

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Section: The Ghusl to Enter Ihram

Book 20, Number 20.1.1:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim from his father from Asma bint Umays that she gave birth to Muhammad ibn Abi Bakr at al-Bayda. Abu Bakr mentioned this to the Messenger of Allah, may Allah bless him and grant him peace, and he said, "Tell her to do ghusl and then enter ihram."

Book 20, Number 20.1.2:

Yahya related to me from Malik from Yahya ibn Said from Said ibn al-Musayyab that Asma bint Umays gave birth to Muhammad ibn Abi Bakr at Dhu'l-Hulayfa and Abu Bakr told her to do ghusl and then enter ihram.

Book 20, Number 20.1.3:

Yahya related to me from Malik from Nafi' that 'Abdullah ibn Umar used to do ghusl for ihram before he entered ihram, and for entering Makka, and for standing on the afternoon of 'Arafa.

Section: The Ghusl of Someone in Ihram

Book 20, Number 20.2.4:

Yahya related to me from Malik from Zayd ibn Aslam from Ibrahim ibn Abdullah ibn Hunayn from his father Abdullah ibn Hunayn that Abdullah ibn Abbas and al-Miswar ibn Makhrama once had a disagreement at al-Abwa. Abdullah said that some one in ihram could wash his head, and al Miswar ibn Makhrama maintained that some one in ihram could not wash his head.

Abdullah ibn Hunayn continued, "Abdullah ibn Abbas sent me to Abu Ayyub al-Ansari, and I found him doing ghusl between the posts of a well, screened by a garment. I greeted him and hesaid, 'Who is that?' I replied, 'I am 'Abdullah ibn Hunayn. 'Abdullah ibn Abbas sent me to you to ask how the Messenger of Allah, may Allah bless him and grant him peace, used to wash his head when he was in ihram.' "

He continued, "Abu Ayyub put his hand on the garment and pulled it down until I could see his head. He said to the man who was pouring out the water for him, 'Pour,' and he poured some over his head. Then he passed his hands over his head from the front to the back and then to the front again, and then said, 'I saw the Messenger of Allah, may Allah bless him and grant him peace, doing it like this.' "

Book 20, Number 20.2.5:

Malik related to me from Humayd ibn Qays from Ata ibn Abi Rabah that 'Umar ibn

alKhattab once asked Yala ibn Munya, who was pouring out water for him while he was having a ghusl, to pour some on his head. Ya'la said, "Are you trying to make me responsible? I will only pour it out if you tell me to do so." Umar ibn al-Khattab said, "Pour. It will only make (my head) more unkempt."

Book 20, Number 20.2.6:

Malik related to me from Nafi that Abdullah ibn Umar would spend the night between the two trails in the valley of Dhu Tuwa when he was approaching Makka. Then he would pray subh, and after that he would enter Makka by the trail which is at the highest part of Makka. He would never enter Makka, if he was coming for hajj or umra, without doing ghusl beforehand when he was near Makka at Dhu Tuwa, and he would tell whoever was with him to do likewise.

Book 20, Number 20.2.7:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar would never wash his head while he was in ihram except if he had to do ghusl because of a wet dream.

Malik said, "I have heard the people of knowledge say that there is no harm in someone who is in ihram rubbing his head with certain kinds of plants after he has stoned the Jamrat al-Aqaba but before he has shaved his head, because once he has finished stoning the Jamrat al-Aqaba it is halal for him to kill lice, to shave his head, to clean himself of body hair, and to wear normal clothes."

Section: Clothes Forbidden to be Worn in Ihram

Book 20, Number 20.3.8:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that a man once asked the Messenger of Allah, may Allah bless him and grant him peace, what clothes someone in ihram could wear, and the Messenger of Allah, may Allah bless him and grant him peace, said, "Do not wear shirts, turbans, trousers, burnouses, or leather socks, except if you cannot find sandals. In that case you can wear leather socks, but cut them off below the ankles. Do not wear any clothes that have been touched by saffron or yellow dye."

Yahya said that Malik was asked about the hadith attributed to the Prophet, may Allah bless him and grant him peace, "Whoever cannot find a waist wrapper should wear trousers," and he said, "I have never heard this, and I do not think that some one who is in ihram can wear trousers, because among the things which the Prophet, may Allah bless him and grant him peace, forbade some one in ihram to wear were trousers, and he did not make any exception for them although he did make an exception for leather socks."

20.4 Wearing Clothes when in Ihram

Section: Wearing Clothes when in Ihram

Book 20, Number 20.4.9:

Yahya related to me from Malik from 'Abdullah ibn Dinar that Abdullah ibn Umar said, "The Messenger of Allah, may Allah bless him and grant him peace, forbade

anyone in ihram to wear a garment which had been dyed with saffron or yellow dye, and said, 'Anyone that cannot find sandals can wear leather socks, but he should cut them off below the ankles.' "

Book 20, Number 20.4.10:

Yahya related to me from Malik from Nafi that he had heard Aslam, the mawla of Umar ibn al-Khattab, telling 'Abdullah ibn Umar that Umar ibn al-Khattab once saw a dyed garment on Talha ibn Ubaydullah while he was in ihram and Umar said, "What is this dyed garment, Talha?", and Talha said, "Amir al-muminin, it is only mud." Umar said, "You and your like are taken by people as imams, and if an ignorant man were to see this garment he would say that Talha ibn Ubaydullah used to wear a dyed robe while he was in ihram. So do not wear any form of dyed clothes."

Book 20, Number 20.4.11:

Yahya related to me from Malik from Hisham ibn Urwa from his father that Asma bint Abi Bakr had worn clothes that were completely dyed with safflower while she was in ihram, though there was not any saffron in them.

Yahya said that Malik was asked if a garment which had been perfumed could be used for ihram if the smell of the perfume had gone, and he said, "Yes, as long as there is no saffron or yellow dye in it."

Book 20, Number 20.4.12:

Yahya related to me from Malik from Nafi that 'Abdullah ibn 'Umar used to disapprove of anybody wearing a belt or girdle while in ihram.

Book 20, Number 20.4.13:

Yahya related to me from Malik from Yahya ibn Sa'id that he heard Said ibn al Musayyab say, about the girdle worn by some one in ihram under his clothes, "There is no harm in it if he ties the ends together as a belt."

Malik said, "This is what I like most out of what I have heard about the matter."

Section: Veiling the Face while in Ihram

Book 20, Number 20.5.13a:

Yahya related to me from Malik from Yahya ibn Said that al-Qasim ibn Muhammad said that al-Furafisa ibn Umayr al-Hanafi saw Uthman ibn Affan at al-Arj, and he was covering his face while in ihram.

Book 20, Number 20.5.13b:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say that a man in ihram should not veil anything above his chin .

Book 20, Number 20.5.14:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar shrouded his

son Waqid ibn Abdullah, who had died at al-Juhfa while in ihram, and he veiled his head and face and said, "If we had not been in ihram we would have perfumed him."

Malik said, "A man can only do things while he is alive. When he is dead, his actions stop."

Book 20, Number 20.5.15:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say that a woman in ihram should wear neither a veil nor gloves.

Book 20, Number 20.5.16:

Yahya related to me from Malik from Hisham ibn Urwa that Fatima bint al-Mundhir said, "We used to veil our faces when we were in ihram in the company of Asma bint Abi Bakr as-Siddiq."

20.7 Wearing Perfume during Hajj.

Book 20, Number 20.5.17:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim from his father that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "I perfumed the Messenger of Allah, may Allah bless him and grant him peace, for his ihram before he entered ihram, and when he came out of ihram before he did tawaf of the House."

Book 20, Number 20.5.18:

Yahya related to me from Malik from Humayd ibn Qays from Ata ibn Rabah that a bedouin came to the Messenger of Allah, may Allah bless him and grant him peace, when he was at Hunayn, and he was wearing a shirt with traces of yellow on it. He said, "Messenger of Allah, I have entered ihram for umra. What should I do?" The Messenger of Allah, may Allah bless him and grant him peace, said to him, "Take off your shirt and wash off this yellowness and do in umra as you would do on hajj."

Book 20, Number 20.5.19:

Yahya related to me from Malik from Nafi from Aslam, the mawla of Umar ibn al Khattab, that Umar ibn al-Khattab discovered the smell of perfume while he was at ash-Shajara, and he asked, "Who is this smell of perfume coming from?" Muawiya ibn Abi Sufyan answered, "From me, amir al-muminin." Umar said, "From you? By the life of Allah!" Muawiya explained, "Umm Habiba perfumed me, amir al-muminin. "'Umar then said, "You must go back and wash it off."

Book 20, Number 20.5.20:

Yahya related to me from Malik from as-Salt ibn Zubayd from more than one of his family that Umar ibn al-Khattab discovered the smell of perfume while he was at ash-Shajara. Kathir ibn as-Salt was at his side, and Umar asked, "Who is this smell of perfume coming from?", and Kathir said, "From me, amir al-muminin. I matted my hair with perfume and I intended not to shave it." Umar said, "Go to a sharaba

and rub your head until it is clean," and Kathir did so.

Malik explained, "A sharaba is the ditch at the base of a date-palm."

Book 20, Number 20.5.21:

Yahya related to me from Malik from Yahya ibn Said and 'Abdullah ibn Abi Bakr and Rabia ibn Abi Abd ar-Rahman that al-Walid ibn Abd al-Malik asked Salim ibn Abdullah and Kharija ibn Zayd ibn Thabit if he could use perfume after he had stoned the jamra and shaved his head, but before he had left for the tawafal-ifada. Salim forbade him to do so, but Kharija ibn Zayd ibn Thabit said that he could.

Malik said, "There is no harm in a man oiling himself with an oil which does not have any perfume in it, either before he enters ihram, or before he leaves Mina for the tawaf al-ifada, if he has stoned the jamra."

Yahya said that Malik was asked whether someone in ihram could eat food with saffron in it, and he said, "There is no harm in some one in ihram eating it if it has been cooked. If, however, it has not been cooked he should not eat it."

Section: Where People Should Enter Ihram

Book 20, Number 20.6.22:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "The people of Madina should enter ihram at Dhu'l-Hulayfa, the people of Syria should do so at al-Juhfa, and the people of Najd should do so at Qarn."

Abdullah ibn Umar added, "I have heard that the Messenger of Allah, may Allah bless him and grant him peace, said, 'The people of Yemen should enter ihram at Yalamlam.' "

Book 20, Number 20.6.23:

Yahya related to me from Malik from Abdullah ibn Dinar that Abdullah ibn Umar said, "The Messenger of Allah, may Allah bless him and grant him peace, told the people of Madina to enter ihram at Dhu'l-Hulayfa, the people of Syria to do so at al-Juhfa, and the people of Najd to do so at Qarn.'

Book 20, Number 20.6.24:

Abdullah ibn Umar said, "I heard these three from the Messenger of Allah, may Allah bless him and grant him peace. I was also told that the Messenger of Allah, may Allah bless him and grant him peace, said, 'The people of Yemen should enter ihram at Yalamlam.' "

Book 20, Number 20.6.25:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar once entered ihram at al-Fur.

Book 20, Number 20.6.26:

Yahya related to me from Malik from a reliable source that Abdullah ibn Umar

once entered ihram at Ilya (Jerusalem).

Book 20, Number 20.6.27:

Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, once entered ihram at al-Jiirrana (near Makka) for an umra.

Section: How to Enter Ihram

Book 20, Number 20.7.28:

Yahya related to me from Malik from Abdullah ibn Umar that the talbiya of the Messenger of Allah, may Allah bless him and grant him peace, was, "I am at Your service, O Allah, I am at Your service. You have no partner. I am at Your service. Praise and blessing belong to You, and the Kingdom. You have no partner."

Labayk, Allahumma labayk, la sharika laka labayk. Inna'l-hamda wa'n-nimata laka wa'l-mulk, la sharika lak.

Malik said that Abdullah ibn Umar used to add, "I am at Your service, I am at Your service. I am at Your service and at Your call. Good is in Your hands, and I am at Your service. Our desire is for You, and our action ."

Labayk, labayk, labayk wa sadayka wa'l-khayr biyadayka labayk wa'r-raghba'u ilayka wa'l-amalu.

Book 20, Number 20.7.29:

Yahya related to me from Malik from Hisham ibn Urwa from his father that the Messenger of Allah, may Allah bless him and grant him peace, used to pray two rakas in the mosque at Dhu'l-Hulayfa, and then, when he had got on to his camel and it had stood up, he would begin doing talbiya.

Book 20, Number 20.7.30:

Yahya related to me from Malik from Musa ibn Uqba that Salim ibn Abdullah heard his father say, "Your claim that the Messenger of Allah, may Allah bless him and grant him peace, entered ihram from this desert of yours is not true, because he only entered ihram from the mosque, i.e. the mosque of Dhu'l-Hulayfa."

Book 20, Number 20.7.31:

Yahya related to me from Malik from Said ibn Abi Said al-Maqburi that Ubayd ibn Jurayj once said to Abdullah ibn Umar, "Abu Abd ar-Rahman, I have seen you doing four things which I have never seen any of your companions doing." He said, "What are they, Ibn Jurayj?" and he replied, "I have seen you touching only the twoYamani corners, I have seen you wearing hairless sandals, I have seen you using yellow dye, and, when you were at Makka and everybody had started doing talbiya after seeing the new moon, I saw that you did not do so until the eighth of Dhu'l-Hijja."

Abdullah ibn Umar replied, "As for the corners, I only ever saw the Messenger of Allah, may Allah bless him and grant him peace, touching the two Yamani corners.

As for the sandals, I saw the Messenger of Allah, may Allah bless him and grant him peace, wearing hairless sandals and doing wudu in them, and I like wearing them. As for using yellow dye, I saw the Messenger of Allah, may Allah bless him and grant him peace, using it, and I also like to use it for dyeing things with. As for doing talbiya, I never saw the Messenger of Allah, may Allah bless him and grant him peace, begin doing so until he had set out on the animal he was riding on (i.e. for Mina and Arafa)."

Book 20, Number 20.7.32:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to pray in the mosque of Dhu'l-Hulayfa, and then go outside and get on his camel and when his camel had stood up he would begin to do talbiya.

Book 20, Number 20.7.33:

Yahya related to me from Malik that he had heard that Abd al-Malik ibn Marwan had started to do talbiya at the mosque of Dhu'l-Hulayfa, after the animal he was riding on had stood up, and that Aban ibn Uthman had told him to do this.

Section: Raising the Voice in Talbiyya

Book 20, Number 20.8.34:

Yahya related to me from Malik from 'Abdullah ibn Abi Bakr ibn Muhammad ibn Amr ibn Hazm from Abd al-Malik ibn Abi Bakr ibn al-Harith ibn Hisham from Khallad ibn as-Sa'ib al-Ansari from his father that the Messenger of Allah, may Allah bless him and grant him peace, said, "Jibril came to me and told me to tell my companions, or whoever was with me, to raise their voices when doing talbiya."

Book 20, Number 20.8.35:

Yahya related to me from Malik that he had heard the people of knowledge say, "Women do not have to raise their voices when they are doing talbiya, and a woman should only speak loudly enough to hear herself."

Malik said, "Some one who is in ihram should not raise his voice when doing talbiya if he is in a mosque where there are groups of people. He should only speak loudly enough for himself and those who are near him to be able to hear, except in the Masjid alHaram and the mosque at Mina, where he should raise his voice."

Malik said, "I have heard some of the people of knowledge recommending (people to do) talbiya at the end of every prayer and at every rise on the route."

Section: Doing Hajj on its Own

Book 20, Number 20.9.36:

Yahya related to me from Malik, from Abu'l-Aswad Muhammad ibn Abd ar-Rahman, fromUrwa ibn az-Zubayr, that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "We set out with the Messenger of Allah, may Allah bless him and grant him peace, in the year of the farewell hajj, and some of us went into ihram to do umra, some of us went into ihram to do hajj and umra, and some of us went into ihram to do hajj on its own. The Messenger of

Allah, may Allah bless him and grant him peace, went into ihram to do hajj on its own. Those who had gone into ihram to do umra came out of ihram (after doing umra). Those who had gone into ihram to do hajj (on its own), or to do both hajj and umra, did not come out of ihram until the day of the sacrifice."

Book 20, Number 20.9.37:

Yahya related to me from Malik, from Abd ar-Rahman ibn al-Qasim, from his father, from A'isha, umm al-muminin, that the Messenger of Allah, may Allah bless him and grant him peace, did hajj on its own.

Book 20, Number 20.9.38:

Yahya related to me from Malik, from Abu'l-Aswad Muhammad ibn 'Abd ar-Rahman, from Urwa ibn az-Zubayr, from A'isha, umm al-muminin, that the Messenger of Allah, may Allah bless him and grant him peace, did hajj on its own.

Book 20, Number 20.9.39:

Yahya related to me from Malik that he had heard the people of knowledge say, "If someone goes into ihram to do hajj on its own, he cannot then go into ihram to do umra."

Malik said, "This is what I have found the people of knowledge in our city doing."

Section: Doing Hajj and Umra Together (Hajj al-Qiran)

Book 20, Number 20.10.40:

Yahya related to me from Malik, from Jafar ibn Muhammad, from his father, that al-Miqdad ibn al-Aswad once went to see AIi ibn Abi Talibat as-Suqya, where he was feeding some young camels of his with a mash of meal and leaves, and he said to him, "This man Uthman ibn Affan is telling people that they cannot do hajj and umra together."

Al-Miqdad said, "Ali ibn Abi Talib went off with bits of meal and leaves on his forearms - and I shall never forget the sight of the meal and the leaves on his arms - and went to see Uthman ibn Affan and asked him, 'Are you saying then that people cannot do hajj and umra together?' Uthman replied, 'That is my opinion.' Whereupon AIi got angry and went out saying, 'I am at your service, O Allah, I am at your service for a hajj and an umra together.' "

Malik said, "Our position (here in Madina) is that someone who does hajj and umra together should not remove any of his hair, nor should he come out of ihram in any way until he has sacrificed an animal, if he has one. He should come out of ihram at Mina, on the day of the sacrifice."

Book 20, Number 20.10.41:

Yahya related to me from Malik, from Muhammad ibn Abd ar-Rahman, from Sulayman ibn Yasar, that when the Messenger of Allah, may Allah bless him and grant him peace, set out for hajj in the year of the farewell hajj, some of his companions went into ihram to do hajj on its own, some of them combined hajj and umra, and some went into ihram to do umra on its own. Those who had gone into

ihram to do hajj, or hajj and umra together, did not come out of ihram, whils tthose who had gone into ihram to doumra (on its own) came out of ihram.

Book 20, Number 20.10.42:

Yahya related to me from Malik that he had heard some of the people of knowledge say, "If someone goes into ihram to do umra and then wants to go into ihram to do hajj as well, he can do so, as long as he has not done tawaf of the House and s'ay between Safa and Marwa. This is what Abdullah ibn 'Umar did when he said, 'If I am blocked from the House we shall do what we did when we were with the Messenger of Allah, may Allah bless him and grant him peace.' He then turned to his companions and said, 'It is the same either way. I call you to witness that I have decided in favour of hajj and umra together. ' "

Malik said, "The companions of the Messenger of Allah, may Allah bless him and grant him peace, went into ihram to do umra in the year of the farewell hajj, and the Messenger of Allah, may Allah bless him and grant him peace, said to them, 'Anyone that has a sacrificial animal with him should go into ihram to do hajj and umra together, and he should not come out of ihram until he has finished both.' "

Section: When to Stop the Talbiya

Book 20, Number 20.11.43:

Yahya related to me from Malik that Muhammad ibn Abi Bakr ath-Thaqafi once asked Anas ibn Malik, while the two of them were going from Mina to Arafa, "What did you use to do on this day when you were with the Messenger of Allah, may Allah bless him and grant him peace?" He said, "Those of us who were saying the talbiya would continue doing so, and no-one disapproved of it, and those of us who were saying 'Allahu akbar' would continue doing so, and no-one disapproved of that either."

Book 20, Number 20.11.44:

Yahya related to me from Malik, from Jafar ibn Muhammad, from his father, that AIi ibn Abi Talib used to say the talbiya while on hajj until after noon on the day of Arafa, when he would stop doing so.

Yahya said that Malik said, "This is what the people of knowledge in our city are still doing."

Book 20, Number 20.11.45:

Yahya related to me from Malik, from Abd ar-Rahman ibn al-Qasim, from his father, that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, would stop saying the talbiya when she arrived at the place of standing (i.e. Arafa) .

Book 20, Number 20.11.46:

Yahya related to me from Malik, from Nafi, that when 'Abdullah ibn Umar was doing hajj he would keep saying the talbiya until he reached the Haram and did tawaf of the House and say between Safa and Marwa. He would then say the talbiya until he left Mina to go to Arafa, at which point he would stop doing so. If he was

doing umra he would stop saying the talbiya on entering the Haram.

Book 20, Number 20.11.47:

Yahya related to me from Malik that Ibn Shihab used to say, "Abdullah ibn Umar would never say the talbiya while he was doing tawaf of the House."

Book 20, Number 20.11.48:

Yahya related to me from Malik, from AIqama ibn Abi AIqama, from his mother, that A'isha, umm al-muminin, used to camp on the plain of Arafa at a place called Namira, and then later she changed to another place called al-Arak.

She said, "A'isha, and those who were with her, would say the talbiya while she was at the place where they were camping, and then, when she had mounted and set out towards the place of standing, she would stop doing so."

She continued, "A'isha used to do umra when she was in Makka after the hajj was over, in the month of Dhu'l-Hijja.Then she stopped doing that, and instead would set out before the new moon of Muharram for al-J uhfa, where she would stay until she saw the new moon, and then, when she had seen the new moon, she would go into ihram to do umra."

Book 20, Number 20.11.49:

Yahya related to me from Malik, from Yahya ibn Said, that Umar ibn Abd alAziz was once going from Mina (to Arafa) on the day of Arafa and heard the takbir being said loudly, so he sent the guard to shout out to the people, "O people, you should be saying the talbiya."

Section: How the People of Makka, and Those Besides Them Living There, Go into Ihram

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Book 20, Number 20.12.50:

Yahya related to me from Malik, from Abd ar-Rahman ibn al-Qasim, from his father, that Umar ibn al-Khattab said, "People of Makka, why is it that people arrive dishevelled while you still have oil on your hair? Go into ihram when you see the new moon."

Book 20, Number 20.12.51:

Yahya related to me from Malik, from Hisham ibn Urwa, that Abdullah ibn az-Zubayr stayed in Makka for nine years. He would go into ihram for hajj at the beginning of Dhu'l-Hijja, and Urwa ibn az-Zubayr, who was with him, would do likewise.

Yahya said that Malik said, "The people of Makka and whoever else is living there besides them should go into ihram for hajj if they are in Makka, and anyone that is living in the centre of Makka and is not one of the people of Makka should not leave the Haram."

Yahya said that Malik said, "Someone who goes into ihram for hajj in Makka should delay tawaf of the House and the sa'y between Safa and Marwa until he has

come back from Mina, which is what Abdullah ibn Umar used to do."

Malik was asked what the people of Madina, or anybody else, should do about tawaf if they went into ihram in Makka at the beginning of Dhu'l-Hijja, and he said, "They should delay the obligatory tawaf, which is the one they combine with the say between Safa and Marwa, but they can do whatever other tawaf they want to, and they should pray two rakas every time they complete seven tawafs, which is what the companions of the Messenger of Allah, may Allah bless him and grant him peace, did when they had gone into ihram to do hajj. They delayed the tawaf of the House and the sa'y between Safa and Marwa until they had come back from Mina. Abdullah ibn Umar also did this, going into ihram for hajj in Makka at the beginning of Dhu'l-Hijja, and then delaying tawaf of theHouse and the say between Safa and Marwa until he had come back from Mina."

Malik was asked whether one of the people of Makka could go into ihram to do umra in the centre of Makka, and he said, "No. He should go outside the Haram and go into ihram there."

Section: Situations when Ihram Not Obligatory for Garlanding Sacrificial Animals

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Book 20, Number 20.13.52:

Yahya related to me from Malik, from 'Abdullah ibn Abi Bakr ibn Muhammad, that Amra bint 'Abd ar-Rahman told him that Ziyad ibn Abi Sufyan once wrote to A'isha, the wife of the Prophet, may Allah bless him and grant him peace, saying, "'Abdullah ibn Abbas said that whatever was haram for some one doing hajj was also haram for some one who sent a sacrificial animal until the animal was sacrificed. I have sent one, so write and tell me what you say about this, or tell the man in charge of the animal what to do.

Amra said that A'isha said, "It is notas Ibn Abbas has said. I once plaited the garlands for the sacrificial animal of the Messenger of Allah, may Allah bless him and grant him peace, with my own two hands. Then after that the Messenger of Allah, may Allah bless him and grant him peace, himself put the garlands on the animal and then sent it with my father. And there was nothing that Allah had made halal forthe Messenger of Allah, may Allah bless him and grant him peace, that was haram for him until such time as the animal had been sacrificed."

Book 20, Number 20.13.53:

Yahya related to me from Malik that Yahya ibn Said said, "I asked Amra bint Abd ar-Rahman if there was anything that was haram for someone who sent a sacrificial animal (to Makka) but did not go there himself, and she told me that she had heard A'isha say, 'It is only some one who goes into ihram for hajj and begins saying the talbiya for whom things are haram.' "

Book 20, Number 20.13.54:

Yahya related to me from Malik, from Yahya ibn Said, from Muhammad ibn Ibrahim ibn al-Harith at-Taymi, that Rabia ibn Abdullah ibn al-Hudayr once saw a man in a state of ihram in Iraq. So he asked people about him and they said, "He has given directions for his sacrificial animal to be garlanded, and it is for that

reason that he has put on ihram ."

Rabia said, "I then met Abdullah ibn az-Zubayr and so I mentioned this to him and he said, 'By the Lord of the Kaba, an innovation.' "

Malik was asked about some one who set out with his own sacrificial animal and marked it and garlanded it at Dhu'l-Hulayfa, but did not go into ihram until he had reached al-Juhfa,and hesaid, "I do not like that, and whoever does so has not acted properly. He should only garland his sacrificial animal, or mark it, when he goes into ihram, unless it is someone who does not intend to do hajj, in which case he sends it off and stays with his family."

Malik was asked if somone who was not in ihram could set out with a sacrificial animal, and he said, "Yes. There is no harm in that."

He was also asked to comment on the different views people had about what became haram for some one who garlanded a sacrificial animal but did not intend to do either hajj or umra, and he said, "What we go by as far as this is concerned is what A'isha, umm al-muminin said, 'The Messenger of Allah, may Allah bless him and grant him peace, sent his sacrificial animal off and did not go there himself, and there was nothing that Allah had made halal for him that was haram for him until the animal had been sacrificed.' "

Section: What a Menstruating Woman Does on Hajj

Book 20, Number 20.14.55:

Yahya related to me from Malik, from Nafi, that Abdullah ibn Umar used to say, "A menstruating woman who wants to go into ihram to do either hajj or umra can do so if she so wishes, but she cannot do tawaf of the House, nor the say between Safa and Marwa. She can participate in all the rituals along with everybody else, except that she cannot do tawaf of the House, nor the say between Safa and Marwa, nor can she come near the mosque until she is pure."

Section: Umra in the Months of Hajj

Book 20, Number 20.15.56:

Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, did umra three times: in the year of Hudaybiya, in the year of al-Qadiyya, and in the year of al-Jiirrana.

Book 20, Number 20.15.57:

Yahya related to me from Malik from Hisham ibn Urwa, from his father, that the Messenger of Allah, may Allah bless him and grant him peace, only did three umras, one of them in Shawwal, and two in Dhu'l-Qada.

Book 20, Number 20.15.58:

Yahya related to me from Malik, from Abd ar-Rahman ibn Harmala al-Aslami, that somebody asked Said ibn al-Musayyab, "Can I do umra before I do hajj?", and Said said, "Yes, the Messenger of Allah, may Allah bless him and grant him peace, did umra before doing hajj."

Book 20, Number 20.15.59:

Yahya related to me from Malik, from Ibn Shihab, from Said ibn al-Musayyab, that Umar ibn Abi Salama once asked Umar ibn alKhattab for permission to do umra in Shawwal. He gave him permission, so he did umra and then went back to his family, and he did not do hajj.

Section: When to Stop Saying the Talbiya for Umra

Book 20, Number 20.16.60:

Yahya related to me from Malik, from Hisham ibn 'Urwa, that his father would stop saying the talbiya when he entered the Haram, if he was doing 'umra.

Malik said that someone who went into ihram at at-Tanim should stop saying the talbiya when he saw the House.

Yahya said that Malik was asked where a man from the people of Madina, or elsewhere, who had begun doing umra at one of the mawaqit, should stop saying the talbiya, and he said, "Someone who goes into ihram at one of the mawaqit should stop saying the talbiya when he arrives at the Haram."

Malik added, "I have heard that Abdullah ibn Umar used to do that."

Section: Hajj At-Tamattu

Book 20, Number 20.17.61:

Yahya related to me from Malik, from Ibn Shihab, that Muhammad ibn Abdullah ibn al-Harith ibn Nawfal ibn Abd al-Muttalib told him that he had heard Sad ibn Abi Waqqas and ad-Dahhak ibn Qays discussing tamattu in between umra and hajj. Ad-Dahhak ibn Qays said, "Only someone who is ignorant of what Allah, the Exalted and Glorified, says would do that." Whereupon Sad said, "How wrong is what you have just said, son of my brother!" Ad-Dahhak said, "Umar ibn al-Khattab forbade that," and Sad said, "The Messenger of Allah, may Allah bless him and grant him peace, did it, and we did it with him."

Book 20, Number 20.17.62:

Yahya related to me from Malik, from Sadaqa ibn Yasar, that Abdullah ibn Umar said, "By Allah, I would rather do umra before hajj and sacrifice an animal than do umra after hajj in the month of Dhu'l-Hijja."

Book 20, Number 20.17.63:

Yahya related to me from Malik, from Abdullah ibn Dinar, that Abdullah ibn Umar used to say, "Anyone that does umra in the months of hajj, that is, in Shawwal, Dhu'l-Qada, or in Dhu'l-Hijja before the hajj, and then stays in Makka until the time for hajj, is doing tamattu if he then does hajj. He must sacrifice whatever animal it is easy for him to obtain, and if he cannot find one then he must fast three days during hajj and seven days when he returns."

Malik said, "This is only the case if he stays until the hajj and does hajj in that same year."

Malik said that if someone who was from Makka but had stopped living there and gone to live elsewhere, came back to do umra in the months of the hajj and then stayed in Makka to begin hajj there, he was doing tamattu, and had to offer up a sacrificial animal, or fast if he could not find one. He was not the same as the people of Makka.

Malik was asked whether someone who was not from Makka and entered Makka to do umra in the months of hajj with the intention of staying on to begin his hajj there was doing tamattu or not, and he said, "Yes, he is doing tamattu, and he is not the same as the people of Makka, even if he has the intention of staying there. This is because he has entered Makka, and is not one of its people, and making a sacrifice or fasting is incumbent on anyone who is not from Makka, and, although he intends to stay, he does not know what possibilities might arise later. He is not one of the people of Makka."

Book 20, Number 20.17.64:

Yahya related to me from Malik that Yahya ibn Said used to hear Said ibn al-Musayyab say, "Anyone that does umra in Shawwal, Dhu'l-Qada or Dhu l-Hijja, and then stays in Makka until it is time for the hajj, is doing tamattu if he then does hajj. He must sacrifice whatever animal it is easy for him to obtain, and if he cannot find one then he must fast three days during hajj and seven days when he returns."

Section: Circumstances in which Tamattu is Not Obligatory

Book 20, Number 20.18.65:

Malik said, "Someone who does umra in Shawwal, Dhu'l-Qada or Dhu'l-Hijja and then goes back to his people, and then returns and does hajj in that same year does not have to sacrifice an animal. Sacrificing an animal is only incumbent on some one who does umra in the months of hajj, and then stays in Makka and then does hajj. A person not from Makka who moves to Makka and establishes his home there and does umra in the months of the hajj and then begins his hajj there is not doing tamattu. He does not have to sacrifice an animal nor does he have to fast. He is in the same position as the people of Makka if he is one of those who are living there."

Malik was asked whether a man from Makka who had gone to live in another town or had been on a journey and then returned to Makka with the intention of staying there, regardless of whether he had a family there or not, and entered it to do umra in the months of the hajj, and then began his hajj there, beginning his umra at the miqat of the Prophet, may Allah bless him and grant him peace, or at a place nearer than that, was doing tamattu or not?

Malik answered, "He does not have to sacrifice an animal or fast as someone who is doing tamattu has to do. This is because Allah, the Blessed and Exalted, says in His Book, 'That is for someone whose family are not present at Masjid al-Haram. '

Section: About Umra in General

Book 20, Number 20.19.66:

Yahya related to me from Malik, from Sumayy, the mawla of Abu Bakr ibn Abd ar-Rahman, from Abu Salih as-Samman, from Abu Hurayra, that the Messenger of Allah, may Allah bless him and grant him peace ,said, "Umra is an expiation for

what is between it and the next umra, and the only reward for an accepted hajj is the Garden."

Book 20, Number 20.19.67:

Yahya related to me from Malik that Sumayy, the mawla of Abu Bakr ibn Abd ar-Rahman, heard Abu Bakribn Abd ar-Rahman say, "A woman came to the Messenger of Allah, may Allah bless him and grant him peace, and said, 'I had arranged to do hajj, but I was prevented,' and the Messenger of Allah, may Allah bless him and grant him peace, said, 'Do umra in Ramadan, for doing umra in it is like doing hajj.' "

Book 20, Number 20.19.68:

Yahya related to me from Malik, from Nafi, from Abdullah ibn Umar, that Umar ibn al-Khattab said, "Keep your hajj separate from your umra. That way your hajj will be more complete. And your umra will be more complete if you do it outside of the months of the hajj."

Book 20, Number 20.19.69:

Yahya related to me from Malik that he had heard that Uthman ibn Affan would sometimes never get down from the animal he was riding on when he was doing umra, until he had returned .

Malik said, "Umra is a sunna, and we do not know of any muslim who has ever said that it is permissible not to do it."

Malik said, "I do not think that anyone can do more than one umra in any one year."

Malik said that someone doing umra who had sexual intercourse with his wife had to sacrifice an animal and do a second umra, which he had to begin when he had finished the one that he had spoiled. He should go into ihram at the same place where he went into ihram for the umra which he had spoiled, except if he had entered into ihram at a place further away than his miqat. This was because he only had to go into ihram from his miqat.

Malik said, "Someone who entered Makka to do umra, and does tawaf of the House and say between Safa and Marwa while he is junub, or not in wudu, and afterwards has intercourse with his wife, and then remembers, should do ghusl, or wudu, and then go back and do tawaf around the House and say between Safa and Marwa and do another umra and sacrifice an animal. A woman should do the same if her husband has intercourse with her while she is in ihram. "

Malik said, "As for beginning umra at at-Tanim, (it is not the only alternative). It is permissible if Allah wills for some one to leave the Haram and go into ihram if he wishes, but the best way is for him to go into ihram at the miqat which the Messenger of Allah, may Allah bless him and grant him peace, used (i.e. at-Tanim), or one which is further away."

Section: Marriage in Ihram

Book 20, Number 20.20.70:

Yahya related to me from Malik, from Rabia ibn Abi Abd ar-Rahman, from

Sulayman ibn Yasar, that the Messenger of Allah, may Allah bless him and grant him peace, sent Abu Rafi and a man of the Ansar to arrange his marriage to Maymuna bint al-Harith, and the Messenger of Allah, may Allah bless him and grant him peace, was in Madina before he had left for umra.

Book 20, Number 20.20.71:

Yahya related to me from Malik, from Nafi, from Nubayh ibn Wahb, who was from the tribe of Bani Abd ad-Dar, that Umar ibn Ubaydullah sent a message to Aban ibn Uthman (who was amir of the hajj at the time), while both of them were in ihram, saying, "I want to marry Bint Shayba ibn Jubayr to Talha ibn Umar and I want you to be present." Aban told him that he should not do that and said, "I heard Uthman ibn Affan say that the Messenger of Allah, may Allah bless him and grant him peace, said, 'A man in ihram should not marry, or give in marriage, or get betrothed.' "

Book 20, Number 20.20.72:

Yahya related to me from Malik, from Da'ud ibn al-Husayn, that Abu Ghatafan ibn Tarif al-Murri told him that his father Tarif had married a woman while he was in ihram, and Umar ibn al-Khattab had rescinded the marriage.

Book 20, Number 20.20.73:

Yahya related to me from Malik, from Nafi, that Abdullah ibn Umar used to say, "Someone in ihram may neither get married, nor arrange a marriage for himself or others."

Book 20, Number 20.20.74:

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab, Salim ibn Abdullah and Sulayman ibn Yasar were asked about whether someone in ihram could get married, and they said, "Some one in ihram may neither get married nor give some one in marriage."

Malik said that a man who was in ihram could return to his wife if he wanted to, if she was still in her idda after she had been divorced from him.

Section: Cupping in Ihram

Book 20, Number 20.21.75:

Yahya related to me from Malik, from Yahya ibn Sa'id, from Sulayman ibn Yasar, that the Messenger of Allah, may Allah bless him and grant him peace, was once cupped on the top of his head while he was in ihram, at Lahyay Jamal, which is a place on the road to Makka.

Book 20, Number 20.21.76:

Yahya related to me from Malik, from Nafi, that Abdullah ibn Umar used to say, "Someone in ihram should not be cupped, except when there is no other alternative."

Malik said, "Someone who is in ihram should not be cupped except when it is

necessary."

Section: Game that can be Eaten by Someone who is in Ihram

Book 20, Number 20.22.77:

Yahya related to me from Malik, from Abu'n-Nadr, the mawla of 'Umar ibn 'Ubaydullah at-Taymi, from Nafi, the mawla of Abu Qatada al-Ansari, that Abu Qatada was once with the Messenger of Allah, may Allah bless him and grant him peace. When they got to one of the roads to Makka he fell behind with some companions of his who were muhrim, while he was not. Then he saw a wild ass, so he got on his mount and asked his companions to give him his whip but they refused. Then he asked them for his spear and they refused to give it to him. So he took hold of it and attacked the ass and killed it. Some of the companions of the Messenger of Allah, may Allah bless him and grant him peace, ate from it, and others refused. When they had caught up with the Messenger of Allah, may Allah bless him and grant him peace, they asked him about it and he said, "It is food that Allah has fed you with."

Book 20, Number 20.22.78:

Yahya related to me from Malik, from Hisham ibn Urwa, from his father, that az-Zubayr ibn al-Awwam used to take dried gazelle meat (safif adh-dhiba) as provisions while he was in ihram.

Malik said, "Safif are dried strips of meat."

Book 20, Number 20.22.79:

Yahya related to me from Malik, from Zayd ibn Aslam, that Ata ibn Yasar had told him, from Abu Qatada, the same hadith about the wild ass as that of Abu'n-Nadr, except that in the hadith of Zayd ibn Aslam the Messenger of Allah, may Allah bless him and grant him peace, said, "Do you still have any of its meat?"

Book 20, Number 20.22.80:

Yahya related to me from Malik that Yahya ibn Said al-Ansari said that Muhammad ibn Ibrahim ibn al-Harith at-Taymi told him from Isa ibn Talha ibn Ubaydullah, fromUmayr ibn Salama ad-Damri, from al-Bahzi, that the Messenger of Allah, may Allah bless him and grant him peace, set out once for Makka while in ihram. When they had reached ar-Rawha, they unexpectedly came upon a wounded wild ass. Someone mentioned it to the Messenger of Allah, may Allah bless him and grant him peace, and hesaid, "Leave it. The man to whom it belongs is about to come." Then al-Bahzi, who was the man, came to the Prophet, may Allah bless him and grant him peace, and said, "Messenger of Allah, do whatever you want with this ass,' and the Messenger of Allah, may Allah bless him and grant him peace, told Abu Bakr to divide it up among the company. Then they went on until they came to the well of al-Uthaba, which was between ar-Ruwaytha and al-Arj (between Makka and Madina), where they unexpectedly came upon a gazelle with an arrow in it, Iying on its side in some shade. He claimed that the Messenger of Allah, may Allah bless him and grant him peace, told someone to stand by it to make sure no one disturbed it until everyone had passed by.

Book 20, Number 20.22.81:

Yahya related to me from Malik, from Yahya ibn Said, that he heard Said ibn al-Musayyab relating from Abu Hurayra that he was once coming back from Bahrayn, and, when he reached ar-Rabadha, he found a caravan of people from Iraq in ihram, who asked him whether they could eat the meat of some game which they had found with the people of ar-Rabadha, and he told them they could eat it. He said, "Afterwards I had doubts about what I had told them to do, so when I got back to Madina I mentioned the matter to Umar ibn al-Khattab and he said, 'What did you tell them to do?' I said, ' I told them to eat it.' Umar ibn al-Khattab said, threatening me, 'If you had told them to do anything else I would have done something to you.' "

Book 20, Number 20.22.82:

Yahya related to me from Malik, from Ibn Shihab, that Salim ibn Abdullah heard Abu Hurayra relating to Abdullah ibn Umar how a group of three people in ihram had passed him at ar-Rabadha and had asked him for a fatwa about eating game which people who were not in ihram were eating, and he told them that they could eat it. He said, "Then I went to Umar ibn al-Khattab in Madina and asked him about it, and he said, 'What did you say to them?' and I said, 'I told them that they could eat it.' Umar said, 'If you had told them anything else I would have done you an injury.' "

Book 20, Number 20.22.83:

Yahya related to me from Malik, from Zayd ibn Aslam, from Ata ibn Yasar, that Kab al-Ahbar was once coming back from Syria with a group of riders, and at a certain point along the road they found some game-meat and Kab said they could eat it. When they got back to Madina they went to Umar ibn al-Khattab and told him about that, and he said, "Who told you you could do that?", and they said, "Kab." He said, "He was indeed the one I made amir over you until you should return."

Later, when they were on the road to Makka, a swarm of locusts passed them by and Kab told them to catch them and eat them. When they got back to Umar ibn al-Khattab they told him about this, and he said (to Kab), "What made you tell them they could do that?" Kab said, "It is game of the sea." He said, "How do you know?", and Kab said, "Amir al-muminin, by the One in whose hand my self is, it is only the sneeze of a fish which it sneezes twice every year."

Malik was asked whether a muhrim could buy game that he had found on the way. He replied, "Game that is only hunted to be offered to people performing Hajj I disapprove of and forbid, but there is no harm in game that a man has which he does not intend for those in ihram, but which a muhrim finds and buys."

Malik said, about someone who had some game with him that he had hunted or bought at the time when he had entered into ihram, that he did not have to get rid of it, and that there was no harm in him giving it to his family.

Malik said that it was halal for some one in ihram to fish in the sea or in rivers and lakes, etc.

Section: Game that is Not Halal to Eat in Ihram

Book 20, Number 20.23.84:

Yahya related to me from Malik, from Ibn Shihab, from Ubaydullah ibn Abdullah ibn Utba ibn Masud, from Abdullah ibn Abbas, that as-Sab ibn Jaththama al-Laythi once gave a wild ass to the Messenger of Allah, may Allah bless him and grant him peace, while he was at al-Abwa, or Waddan, and the Messenger of Allah, may Allah bless him and grant him peace, gave it back to him. However, when the Messenger of Allah, may Allah bless him and grant him peace, saw the expression on the man's face he said, "We only gave it back to you because we are in ihram."

Book 20, Number 20.23.85:

Yahya related to me from Malik, from Abdullah ibn Abi Bakr, that Abd ar-Rahman ibn Amir ibn Rabia said, "I once saw Uthman ibn Affan in ihram on a hot summer's day at al-Arj,and he had covered his face with a red woollen cloth. Some game-meat was brought to him and he told his companions to eat. They said, 'Will you not eat then?', and he said, 'I am not in the same position as you. It was hunted for my sake.' "

Book 20, Number 20.23.86:

Yahya related to me from Malik, from Hisham ibn Urwa, from his father, that A'isha, umm al-muminin, said to him, "Son of my sister, it is only for ten nights, so if you get an urge to do something, leave it," by which she meant eating game-meat.

Malik said that if game was hunted forthe sake of a man who is in ihram and it was prepared for him and he ate some of it knowing that it had been hunted for his sake, then he had to pay a forfeit for all of the game that had been hunted on his behalf.

Malik was asked about whether someone who was forced to eat carrion while he was in ihram should hunt game and then eat that rather than the carrion, and he said, "It is better for him to eat the carrion, because Allah, the Blessed and Exalted, has not given permission for someone in ihram to either eat game or take it in any situation, but He has made allowances for eating carrion when absolutely necessary."

Malik said, "It is not halal for anyone, whether in ihram or not, to eat game which has been killed or sacrificed by some one in ihram, because, whether it was killed deliberately or by mistake, it was not done in a halal manner, and so eating it is not halal. I have heard this from more than one person. Somebody who kills game and then eats it only has to make a single kaffara, which is the same as for somebody who kills game but does not eat any of it."

Section: Hunting in the Haram

Book 20, Number 20.24.87:

Malik said, "It is not halal to eat any game that has been hunted in the Haram, or has had a dog set after it in the Haram and then been killed outside the Haram. Anyone that does that has to pay a forfeit for what has been hunted. However, some one that sets his dog after game outside the Haram and then follows it until it is hunted down in the Haram does not have to pay any forfeit, unless he set the dog after the game near to the Haram. The game should not be eaten, however. If he set

the dog loose near the Haram then he has to pay a forfeit for the game."

Section: Assessing the Forfeit for Hunting Game Animals that Someone in Ihram can Kill

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Book 20, Number 20.25.88:

Malik said, "Allah, the Blessed and Exalted, says, 'O you who trust, do not kill game while you are in ihram. Whoever of you kills game intentionally has to pay a forfeit commensurate with what he has killed in cattle which two men from among you shall judge, a sacrificial animal which reaches the Kaba, or else he makes a kaffara of either feeding poor people or the equivalent of that in fasting, so that he may taste the consequences of what he has done.' " (Sura 5 ayat 95).

Malik said, "Someone who hunts game when he is not in ihram and then kills it while he is in ihram is in the same position as someone who buys game while he is in ihram and then kills it. Allah has forbidden killing it, and so a man who does so has to pay a forfeit for it. The position that we go by in this matter is that a forfeit is assessed for anyone who kills game while he is in ihram."

Yahya said that Malik said, "The best that I have heard about someone who kills game and is assessed for it is that the game which he has killed is assessed and its value in food is estimated and with that food he feeds each poor man a mudd, or fasts a day in place of each mudd. The number of poor men is considered, and if it is ten then he fasts ten days, and if it is twenty he fasts twenty days, according to how many people there are to be fed, even if there are more than sixty."

Malik said, "I have heard that a forfeit is assessed for someone who kills game in the Haram while he is not in ihram in the same way that it is assessed for some one who kills game in the Haram while he is in ihram ."

Section: Animals that Someone in Ihram can Kill

Book 20, Number 20.26.89:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "There are five kinds of animal which it is not wrong for some one in ihram to kill: crows, kites, scorpions, rats and mice, and wild dogs."

Book 20, Number 20.26.90:

Yahya related to me from Malik from Abdullah ibn Dinar from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace,said,"There are five (kinds of) animal which it is not wrong for some one in ihram to kill: scorpions, rats and mice, crows, kites and wild dogs. "

Book 20, Number 20.26.91:

Yahya related to me from Malik from Hisham ibn Urwa from his father that the Messenger of Allah, may Allah bless him and grant him peace, said, "There are five trespassers that can be killed in the Haram: rats and mice, scorpions, crows, kites and wild dogs."

Book 20, Number 20.26.92:

Yahya related to me from Malik from Ibn Shihab that Umar ibn al-Khattab told people to kill snakes in the Haram.

Malik said, about the "wild dogs" which people were told to kill in the Haram, that any animals that wounded, attacked, or terrorised men, such as lions, leopards, Iynxes and wolves, were counted as"wild dogs." However, someone who was in ihram should not kill beasts of prey that did not attack (people), such as hyenas, foxes, cats and anything else like them, and if he did then he had to pay a forfeit for it. Similarly, someone in ihram should not kill any predatory birds except the kinds that the Prophet, may Allah bless him and grant him peace, specified, namely crows and kites. If someone in ihram killed any other kind of bird he had to pay a forfeit for it.

Section: Things that Someone in Ihram is Allowed to do

Book 20, Number 20.27.93:

Yahya related to me from Yahya ibn Said from Muhammad ibn Ibrahim ibn alHarith at-Taymi from Rabia ibn Abi Abdullah ibn alHudayr that he saw Umar ibn al-Khattab taking the ticks off a camel of his at as-Suqya while he was in ihram .

Malik said that he disapproved of that.

Book 20, Number 20.27.94:

Yahya related to me from Malik from Alqama ibn Abi Alqama that his mother said, "I heard A'isha, the wife of the Prophet, may Allah bless him and grant him peace, being asked whether some one in ihram could scratch their body or not, and she said, 'Yes, he can scratch it and do so as hard as he pleases. I would scratch even if my hands were tied and I could only use my feet.' "

Book 20, Number 20.27.95:

Yahya related to me from Malik from Ayyub ibn Musa that Abdullah ibn Umar once looked in the mirror for something that was irritating him while he was in ihram.

Book 20, Number 20.27.96:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar did not like people who were in ihram removing mites or ticks from their camels.

Malik said, "This is what I like most out of what I have heard about the matter."

Book 20, Number 20.27.97:

Yahya related to me from Malik that Muhammad ibn Abdullah ibn Abi Maryam once asked Said ibn al-Musayyab about (what to do with) a nail of his that had broken while he was in ihram and Said said, "cut it off."

Malik was asked whether some one in ihram who had an ear-complaint could use medicinal oil which was not perfumed for dropping into his ears, and he said, "I do not see any harm in that, and even if he were to put it into his mouth I still would

not see any harm in it."

Malik said that there was no harm in some one in ihram lancing an abscess that he had, or a boil, or cutting a vein, if he needed to do so.

Section: Doing the Hajj for Somebody Else

Book 20, Number 20.28.98:

Yahya related to me from Malik from Ibn Shihab from Sulayman ibn Yasar that Abdullah ibn Abbas said, "Al-Fadl ibn Abbas was riding behind the Messenger of Allah, may Allah bless him and grant him peace, when a woman from the Khathama tribe came to him to ask him for a fatwa. Al-Fadl began to look at her, and she at him, and the Messenger of Allah, may Allah bless him and grant him peace, turned Fadl's face away to the other side. The woman said, 'Messenger of Allah, Allah's making the hajj obligatory finds my father a very old man, unable to stay firm on his riding-beast. Can I do hajj for him?', and he said, 'Yes.' This was during the farewell hajj."

Section: Concerning Someone whose Path (to the House) is Blocked by an Enemy

Book 20, Number 20.29.99:

Yahya related to me that Malik said, "Someone whose passage to the House is blocked by an enemy is freed from every restriction of ihram, and should sacrifice his animal and shave his head wherever he has been detained, and there is nothing for him to make up afterwards."

Yahya related to me from Malik that he had heard that when the Messenger of Allah, may Allah bless him and grant him peace, and his companions came out of ihram at al-Hudaybiya they sacrificed their sacrificial animals and shaved their heads, and were freed from all the restrictions of ihram without having done tawaf of the House and without their sacrificial animals reaching the Kaba.

There is nothing known about the Messenger of Allah, may Allah bless him and grant him peace, ever telling any of his companions, or anybody else that was with him, to make up for anything they had missed or to go back to doing anything they had not finished doing.

Book 20, Number 20.29.100:

Yahya related to me from Malik from Nafi that when Abdullah ibn Umar set out for Makka during the troubles (between al-Hajjaj ibn Yusuf and Zubair ibn al-Awwam) he said, "If I am blocked from going to the House we shall do what we did when we were with the Messenger of Allah, may Allah bless him and grant him peace," and he went into ihram for umra, because that was what the Messenger of Allah, may Allah bless him and grant him peace, did in the year of al-Hudaybiya.

But afterwards, he reconsidered his position and said, "It is the same either way." After that he turned to his companions and said, "It is the same either way. I call you to witness that I have decided in favour of hajj and umra together."

He then got through to the House (without being stopped) and did one set of tawaf,

which he considered to be enough for himself, and sacrificed an animal.

Malik said, "This is what we go by if someone is hindered by an enemy, as the Prophet, may Allah bless him and grant him peace, and his companions were. If some one is hindered by anything other than an enemy, he is only freed from ihram by tawaf of the House. "

Section: Concerning Someone who is Hindered (From Going To The House) by Something Other than an Enemy

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Book 20, Number 20.30.101:

Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah that Abdullah ibn Umar said, "Someone who is held back from going to the House by illness can only come out of ihram after he has done tawaf of the House and say between Safa and Marwa. If it is absolutely necessary for him to wear any ordinary clothes, or undergo medical treatment, he should do that and pay compensation for it."

Book 20, Number 20.30.102:

Yahya related to me from Malik from Yahya ibn Said that he had heard that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, used to say, "Only the House frees a person in ihram from ihram."

Book 20, Number 20.30.103:

Yahya related to me from Malik from Ayyub ibn Abi Tamima as-Sakhtayani that a very old man from Basra once said to him, "I set out for Makka but on the way there I broke my thigh, so I sent a message on to Makka Abdullah ibn Abbas and Abdullah ibn Umar and the people were there, but no-one allowed me to leave ihram, and I stayed there for seven months until I left ihram by doing an umra."

Book 20, Number 20.30.104:

Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah that Abdullah ibn Umar said, "Some one who is detained by sickness before he has got to the House cannot leave ihram until he has done tawaf of the House and say between Safa and Marwa."

Yahya related to me from Malik from Yahya ibn Said from Sulayman ibn Yasar that Said ibn Huzaba al-Makhzumi was thrown off his mount while he was in ihram on the road to Makka. He asked after the person in charge of the relay station where he was injured and he found Abdullah ibn Umar, Abdullah ibn az-Zubayr and Marwan ibn al-Hakam there. He told them what had happened to him and all of them said that he should take whatever medicine he had to take and pay compensation for it. Then, when he got better again, he should do umra and come out of his ihram, after which he had to do hajj another year and to offer whatever sacrificial animal he was able to in the future.

Malik said, "This is what we do here (in Madina) if someone is detained by something other than an enemy. And when Abu Ayyub al-Ansari and Habbar ibn al-Aswad came to the day of the sacrifice and had missed the hajj, Umar ibn al-Khattab told them to come out of ihram by doing umra and then to go home free

of ihram and do hajj some time in the future and to sacrifice an animal, or, if they could not find one, to fast three days during the hajj and seven days after they had returned to their families."

Malik said, "Anyone who is detained from doing hajj after he has gone into ihram, whether by illness or otherwise, or by an error in calculating the month or because the new moon is concealed from him is in the same position as some one who is hindered from doing the hajj and must do the same as he does."

Yahya said that Malik was asked about the situation of someone from Makka who went into ihram for hajj and then broke a bone or had severe stomach pain, or of a woman who was in labour, and he said, "Someone to whom this happens is in the same situation as one who is hindered from doing the hajj, and he must do the same as people from outlying regions do when they are hindered from doing the hajj."

Malik said, about someone who arrived in the months of the hajj with the intention of doing umra, and completed his umra and went into ihram in Makka to do hajj, and then broke a bone or something else happened to him which stopped him from being present at Arafa with everybody else, "I think that he should stay where he is until he is better and then go outside the area of the Haram, and then return to Makka and do tawaf of the House and say between Safa and Marwa, and then leave ihram. He must then do hajj again another year and offer a sacrificial animal ."

Malik said, about someone who left ihram in Makka, and then did tawaf of the House and say between Safa and Marwa, and then fell ill and was unable to be present with everybody at Arafa, "If the hajj passes someone by he should, if he can, go out of the area of the Haram and then come back in again to do umra and do tawaf of the House and say between Safa and Marwa, because he had not intended his initial tawaf to be for an umra, and so for this reason he does it again. He must do the next hajj and offer a sacrificial animal.

If he is not one of the people of Makka, and something happens to him which stops him from doing the hajj, but he does tawaf of the House and say between Safa and Marwa, he should come out of ihram by doing an umra and then do tawaf of the House a second time, and say between Safa and Marwa, because his initial tawaf and say were intended for the hajj. He must do the next hajj and offer a sacrificial animal."

Section: Concerning Building the Kaba

Book 20, Number 20.31.105:

Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah that Abdullah ibn Muhammad ibn Abi Bakras-Siddiq told Abdullah ibn Umar from A'isha, that the Prophet, may Allah bless him and grant him peace, said, "Don't you see that when your people built the Kaba they fell short of the foundations of Ibrahim?" A'isha said, "Messenger of Allah, won't you return it to the foundations of Ibrahim?" and the Messenger of Allah, may Allah bless him and grant him peace, said, "If it were not that your people have only recently left kufr, I would have done so."

Salim ibn Abdullah said that Abdullah ibn Umar said, "If A'isha heard this from the Messenger of Allah, may Allah bless him and grant him peace, then I consider that the Messenger of Allah, may Allah bless him and grant him peace, only refrained

from greeting the two corners which are adjacent to the Hijr because the House had not been completed on the foundations of Ibrahim." (i.e. the corners he did not touch were not the original corners of the Kaba) .

Book 20, Number 20.31.106:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, umm al-muminin, said, "I do not mind whether I pray in the Hijr or in the House." (i.e. praying in the Hijr is the same as praying in the House).

Book 20, Number 20.31.107:

Yahya related to me from Malik that he heard Ibn Shihab say that he had heard one of the people of knowledge say that the Hijr was only enclosed so that people would go beyond it as they were making tawaf, and their tawaf would therefore encompass the original House.

Section: Hastening (Raml) in the Tawaf

Book 20, Number 20.32.108:

Yahya related to me from Malik from Jafar ibn Muhammad from his father that Jabir ibn Abdullah said, "I saw the Messenger of Allah, may Allah bless him and grant him peace, hastening from the Black Stone until he reached it again, three times."

Malik said, "This is what is still done by the people of knowledge in our city."

Book 20, Number 20.32.109:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to hasten from the Black Stone round to the Black Stone three times and then would walk four circuits normally.

Book 20, Number 20.32.110:

Yahya related to me from Malik from Hisham ibn Urwa that when his father did tawaf of the House he would hasten in the first three circuits and say in a low voice, "O Allah, there is no god but You, and You bring to life after You have made to die."

Allahumma la ilaha illa anta, wa anta tuhyi badama amatta.

Book 20, Number 20.32.111:

Yahya related to me from Malik from Hisham ibn Urwa from his father that he saw Abdullah ibn az-Zubayr go into ihram for umra at at-Tanim.

He said, "Then I saw him hasten around the House for three circuits."

Book 20, Number 20.32.112:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar never used to do tawaf of the House or say between Safa and Marwa if he went into ihram in Makka until he had returned from Mina, nor would he hasten when doing tawaf of the

House if he went into ihram in Makka.

Section: Saluting the Corners during Tawaf

Book 20, Number 20.33.113:

Yahya related to me from Malik that he had heard that when the Messenger of Allah, may Allah bless him and grant him peace, had finished his tawaf of the House, prayed two rakas, and wanted to go to Safa and Marwa, he would salute the corner of the Black Stone before he left.

Book 20, Number 20.33.114:

Yahya related to me from Malik from Hisham ibn Urwa that his father said that the Messenger of Allah, may Allah bless him and grant him peace, once said to Abd ar-Rahman ibn Awf, "What do you do, Abu Muhammad, when saluting the corner?" and Abd ar-Rahman said, "Sometimes I salute it, and sometimes I don't." The Messenger of Allah, may Allah bless him and grant him peace, said, "You are right."

Book 20, Number 20.33.115:

Yahya related to me from Malik from Hisham ibn Urwa that his father used to salute all the corners when he did tawaf of the House and did not omit the Yamani corner unless he was prevented from it.

Section: Kissing the Corner of the Black Stone when Saluting the Corners

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Book 20, Number 20.34.116:

Yahya related to me from Malik from Hisham ibn Urwa from his father that Umar ibn al-Khattab said to the corner of the Black Stone while he was doing tawaf of the House, "You are only a stone, and if I had not seen the Messenger of Allah, may Allah bless him and grant him peace, kiss you, I would not do so." Then he kissed it.

Malik said, "I have heard some of the people of knowledge recommending someone doing tawaf of the House to put his hand to his mouth when he takes it from the Yamani corner."

Section: The Two Rakas of Tawaf

Book 20, Number 20.35.117:

Yahya related to me from Malik from Hisham ibn Urwa that his father would never do two sets of seven tawafs together without praying between them. After every seven tawafs he would pray two rakas, sometimes at the maqam of Ibrahim, and sometimes elsewhere.

Malik was asked whether a man doing voluntary tawaf could, to make it easier on himself, join two or more sets of seven circuits and then pray whatever he owed for those sets of seven, and he said, "He should not do that. The sunna is that he does two rakasafter every seven circuits."

Malik said, about someone who began doing tawaf and then forgot how many he

had done and did eightor nine circuits, "He should stop when he knows that he has done more than the right number and then pray two rakas,and he should not count the ones that he has done in excess. Neither should he build on the nine that he has done and then pray the rakas for the two sets of seven circuits together, because the sunna is that you pray two rakas after every seven circuits."

Malik said that someone who was in doubt about his tawaf after he had prayed the two rakas of tawaf should go back and complete his tawaf until he was certain of how much he had done. He should then repeat the two rakas, because prayer when doing tawaf was only valid after completing seven circuits.

"If some one breaks his wudu either while he is doing tawaf, or when he has finished tawaf but before he has prayed the two rakas of tawaf, he should do wudu and begin the tawaf and the two rakas afresh. Breaking wudu does not interrupt say between Safa and Marwa, but a person should not begin say unless he is pure by being in wudu."

Section: Praying after Subh and Asr when doing Tawaf

Book 20, Number 20.36.118:

Yahya related to me from Malik from Ibn Shihab from Humayd ibn Abd ar-Rahman ibn Awf that Abd ar-Rahman ibn Abd al-Qari mentioned to him that he once did tawaf of the House with Umar ibn al-Khattab after subh and when Umar had finished his tawaf he looked and saw that the sun had not yet risen, so he rode on until he made his camel kneel at Dhu Tuwa, and he prayed two rakas.

Book 20, Number 20.36.119:

Yahya related to me from Malik that Abu'z Zubayr al-Makki said, "I saw Abdullah ibn Abbas doing tawaf after asr. Then he went into his room and I do not know what he did."

Book 20, Number 20.36.120:

Yahya related to me from Malik that Abu'z-Zubayr al-Makki said, "I saw the House deserted both after subh and asr, with no-one doing tawaf."

Malik said, "If someone does some of his circuits and then the subh or asr prayer is begun, he should pray with the imam and then complete the rest of his circuits but should not pray at all until the sun has either risen or set "

He added, "There is no harm in delaying the two rakas until after he has prayed maghrib."

Malik said, "There is no harm in someone doing a single tawaf after subh or after asr, not to do more than one group of seven circuits, and then as long as he delays the two rakas until after the sun has risen, as Umar ibn al-Khattab did, or he delays them until after the sun has set if it is after asr. Then when the sun has set he can pray them if he wants, or, if he wants, he can delay them until after he has prayed maghrib. There is no harm in that."

Section: Taking Leave of the House

Book 20, Number 20.37.121:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that Umar ibn al-Khattab said, "No-one should leave the hajj until he has done tawaf of the House, and tawaf of the House is the final rite."

Malik said, commenting about Umar ibn al-Khattab's saying 'tawaf of the House is the final rite,' "In our opinion, and Allah knows best, that is because Allah, the Blessed and Exalted, says, 'Whoever exalts the rituals of Allah - that is from the taqwa of the hearts' (Sura 22 ayat 32), and He says, 'Then their halal place (of sacrifice) is at the Ancient House,' and the place of all the rituals and where they end is therefore at the Ancient House."

Book 20, Number 20.37.122:

Yahya related to me from Malik from Yahya ibn Said that Umar ibn al-Khattab refused to let one man who had not taken leave of the House pass adh-Dhahran, (a valley eighteen miles from Makka) until he had taken leave of it.

Book 20, Number 20.37.123:

Yahya related to me from Malik from Hisham ibn Urwa that his father said, "Allah has completed the hajj of anyone who does the tawaf al-ifada. It is fitting that tawaf of the House be the last of his contract, as long as nothing prevents him, and if something prevents him, or an obstacle arises, then Allah has completed his hajj."

Malik said, "I do not think that a man who does not know that the last of his contract is tawaf of the House until he has left owes anything, unless he is nearby and can return, do tawaf, and then leave having done the tawaf al-ifada."

Section: Tawaf in General

Book 20, Number 20.38.124:

Yahya related to me from Malik from Abu'l-Aswad Muhammad ibn Abd ar-Rahman ibn Nawfal from Urwa ibn az-Zubayr from Zaynab bint Abi Salama that Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, said, "I once complained to the Messenger of Allah, may Allah bless him and grant him peace, that I was ill and he said, 'Do tawaf riding behind the people.' So I did tawaf riding my camel, while the Messenger of Allah, may Allah bless him and grant him peace, was praying by the side of the House, reciting Surat at-Tur."

Book 20, Number 20.38.125:

Yahya related to me from Malik from Abu'z Zubayr al-Makki that Abu Maiz al-Aslami Abdullah ibn Sufyan told him that once, when he was sitting with Abdullah ibn Umar, a woman came to ask him for an opinion. She said, "I set out intending to do tawaf of the House, but then, when I got to the gate of the Mosque, I started bleeding, so I went back until it had left me. Then I set out again, and then, when I got to the gate of the mosque, I started bleeding, so I went back until it had left me. Then I set off again, and then, when I got to the gate of the mosque, I started bleeding." Abdullah ibn Umar said, "That is only an impulse from Shaytan. Do ghusl, then bind your private parts with a cloth and do tawaf."

Book 20, Number 20.38.126:

Yahya related to me from Malik that he had heard that if Sad ibn Abi Waqqas entered Makka late, he would go to Arafa before doing tawaf of the House and say between Safa and Marwa, and then do tawaf when he got back.

Malik said, "The leeway is broad, if Allah wills."

Malik was asked whether somebody that was doing obligatory tawaf could stop and talk with another man, and he said, "I do not like him to do that."

Malik said, "Only someone who is pure (by being in wudu) should do tawaf of the House or say between Safa and Marwa."

Section: Starting with Safa in the Say

Book 20, Number 20.39.127:

Yahya related to me from Malik from Jafar ibn Muhammad ibn AIi from his father that Jabir ibn Abdullah said, "I heard the Messenger of Allah, may Allah bless him and grant him peace, say as he left the mosque, intending to go to Safa, 'We begin with that with which Allah began,' and he began with Safa."

Book 20, Number 20.39.128:

Yahya related to me from Malik from Jafar ibn Muhammed ibn AIi from his father from Jabir ibn Abdullah that the Messenger of Allah, may Allah bless him and grant him peace, used to say, "Allah is greater" three times when he stopped on Safa, and "There is no god but Allah, alone, without any partner. To Him belong the Kingdom and praise, and He has power over everything" three times, and make dua. He would then do the same on Marwa.

Book 20, Number 20.39.129:

Yahya related to me from Malik from Nafi that he heard Abdullah ibn Umar making dua on Safa saying, "O Allah, You have said, 'call on Me - I will answer you' and You do not break Your promise. So I am askingYou, in the same way that You have guided me to Islam, not to take it away from me, and that You make me die while I am muslim."

Section: Say in General

Book 20, Number 20.40.130:

Yahya related to me from Malik from Hisham ibn Urwa that his father said, "Once when I was young I said to A'isha, umm al-muminin, 'Have you seen the saying of Allah, the Blessed and Exalted, "Safa and Marwa are among the waymarks of Allah, so whoever does hajj or umra to the House, there is no harm in his going between them," so it follows that there should be no harm for some one who does not go between them.'

A'isha said, 'No. If it were as you say, there would be no harm in his not going between them. This ayat was only revealed about the Ansar. They used to make pilgrimage to Manat, and Manat was an idol near Qudayd, and they used to avoid going between Safa and Marwa, and when Islam came they asked the Messenger of

Allah, may Allah bless him and grant him peace, about this and Allah, the Blessed and Exalted, revealed, "Safa and Marwa are among the waymarks of Allah, so whoever does hajj or umra to the House, there is no harm in his going between them. " ' "

Book 20, Number 20.40.131:

Yahya related to me from Malik from Hisham ibn Urwa that Sawda bint Abdullah ibn Umar, who was in the household of Urwa ibn az-Zubayr, set off walking between Safa and Marwa when doing either hajj or an umra. She was a heavy woman and she began when everybody was leaving after the isha prayer, and she still had not completed her circuits when the first call was given for subh, but finished them between the two calls to prayer.

If Urwa saw people doing circuits on riding beasts he would tell them in very strong terms not to do so, and they would pretend to be ill, out of awe of him.

Hisham added, "He used to say to us about them 'These are unsuccessful and have lost.' "

Malik said, "Someone who forgets say between Safa and Marwa in an umra, and does not remember until he is far from Makka, should return and do say. If, in the meantime, he has had intercourse with a woman, he should return and do say between Safa and Marwa so as to complete what remains of that umra, and then after that he has to do another umra and offer a sacrificial animal."

Malik was asked about someone who met another man when doing say between Safa and Marwa and stopped to talk with him, and he said, "I do not like anyone to do that."

Malik said, "If anyone forgets some of his tawaf or is uncertain about it and remembers only when he is doing say between Safa and Marwa, he should stop the say and complete his tawaf of the House apart from that about which he is certain. After that he prays the two rakas of the tawaf, and then begins his say between Safa and Marwa."

Book 20, Number 20.40.132:

Yahya related to me from Malik from Jafar ibn Muhammad from his father from Jabir ibn Abdullah that the Messenger of Allah, may Allah bless him and grant him peace, walked when he came down from Safa and Marwa and then, when he reached the middle of the valley, he broke into a light run until he had left it.

Malik said, about a man who, out of ignorance, did the say between Safa and Marwa before he had done tawaf of the House, "He should go back and do tawaf of the House and then do say between Safa and Marwa. If he does not learn about this until he has left Makka and is far away, he should return to Makka and do tawaf of the House and say between Safa and Marwa. If in the meantime he has had intercourse with a woman he should return, and do tawaf of the House and say between Safa and Marwa so that he completes what he owes of that umra. Then, after that, he has to do another umra and offer a sacrificial animal ."

Section: Fasting the Day of Arafa

Book 20, Number 20.41.133:

Yahya related to me from Malik from Abu'n Nadr, the mawla of Umar ibn Ubaydullah, from Umayr, the mawla of Abdullah ibn Abbas, from Umm al-Fadl bint al-Harith, that she was present when some people were arguing on the day of Arafa about whether the Messenger of Allah, may Allah bless him and grant him peace, was fasting or not. Some of them said he was fasting, and some of them said he was not. So she sent a bowl of milk to him while his camel was standing still and he drank.

Book 20, Number 20.41.134:

Yahya related to me from Malik from Yahya ibn Said from al-Qasim ibn Muhammad that A'isha, umm al-muminin, used to fast on the day of Arafa .

Al-Qasim said, "I saw her, when the imam began moving away (after sunset) on the afternoon of Arafa, stay where she was until the ground between her and the people became clear. Then she asked for something to drink and broke her fast."

Section: Fasting on the Days of Mina

Book 20, Number 20.42.135:

Yahya related to me from Malik from Abu'n-Nadr, the mawla of Umar ibn Ubaydullah, from Sulayman ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, forbade fasting on the days of Mina.

Book 20, Number 20.42.136:

Yahya related to me from Malik from Ibn Shihab that the Messenger of Allah, may Allah bless him and grant him peace, sent Abdullah ibn Hudhayfa out on the days of Mina to circulate among the people to tell them those days were for eating and drinking and remembrance of Allah.

Book 20, Number 20.42.137:

Yahya related to me from Malik from Muhammad ibn Yahya ibn Habban from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, forbade fasting on two days - the day of the Id al-Fitr and the day of the Id al-Adha.

Book 20, Number 20.42.138:

Yahya related to me from Malik from Yazid ibn Abdullah ibn al-Hadi from Abu Murra, the mawla of Umm Hani, the sister of Aqil ibn Abi Talib, that Abdullah ibn Amr ibn al-As told him that he had visited his father Amr ibn al-As and found him eating. His father had invited him to eat, and when he replied that he was fasting, his father said, "These are the days on which the Messenger of Allah, may Allah bless him and grant him peace, forbade us to fast, and told us to break the fast on them."

Malik said, "These days are the days of tashriq."

Section: What are Acceptable as Sacrificial Animals (Hadys)

Book 20, Number 20.43.139:

Yahya related to me from Malik from Nafi from Abdullah ibn Abi Bakr ibn Muhammad ibn Amr ibn Hazm that the Messenger of Allah, may Allah bless him and grant him peace, sacrificed a camel, which had belonged to Abu Jahl ibn Hisham, in either a hajj or an umra.

Book 20, Number 20.43.140:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, saw a man driving forward a camel which he was going to sacrifice, and he told him to ride it. The man said, "Messenger of Allah, it is an animal that I am going to sacrifice," and he replied, "Ride it, woe on you," either the second or the third time.

Book 20, Number 20.43.141:

Yahya related to me from Malik from Abdullah ibn Dinar that he used to see Abdullah ibn Umar sacrificing animals two at a time during hajj and one at a time during umra. He said, "I saw him sacrifice an animal during an umra outside the house of Khalid ibn Usayd, where he was staying. I saw him stick his spear in the throat of the animal he was going to sacrifice until the spear came out under its shoulder."'

Book 20, Number 20.43.142:

Yahya related to me from Malik from Yahya ibn Said that Umar ibn Abd al-Aziz once sacrificed a camel during a hajj or an umra.

Book 20, Number 20.43.143:

Yahya related to me from Malik from Abu Jafar al-Qari that Abdullah ibn Ayyash ibn Abi Rabia al-Makhzumi sacrificed two camels, one of them a Bactrian.

Book 20, Number 20.43.144:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "If a she-camel that is being driven as a sacrificial animal gives birth, the offspring should be carried along as well and they are sacrificed together with her, and if there is no place where they can be carried, they should be carried on the mother until they are all sacrificed."

Book 20, Number 20.43.145:

ahya related to me from Malik from Hisham ibn Urwa that his father said, "If necessary, ride on your sacrificial animal, without burdening it, and if necessary, drink its milk after its young one has drunk its fill, and when you sacrifice it, sacrifice the young one with it."

Section: What to Do with Sacrificial Animals (Hadys) while They are being Driven

Book 20, Number 20.44.146:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that when he brought an animal to be sacrificed from Madina he would garland it and brand it at Dhu'l-Hulayfa, doing the garlanding before the branding, but doing both in the same place, while facing the qibla. He would garland the animal with two sandals and brand it on its left side. It would then be driven with him until he observed the standing together with everybody at Arafa. Then he would drive it on with him when everybody else moved on, and then when he arrived at Mina on the morning of the sacrifice, he would sacrifice the animal, before he shaved his head. He would sacrifice the animals with his own hands ,lining them up standing and facing the qibla. He would then eat some of the meat, and give some of it away.

Book 20, Number 20.44.147:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, when nicking the hump of his sacrificial animal to brand it, "In the name of Allah, and Allah is greater."

Book 20, Number 20.44.148:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "A sacrificial animal is what has been garlanded, branded, and stood with on Arafa."

Book 20, Number 20.44.149:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to drape his sacrificial animals in fine Egyptian linen, saddlecloths and sets of clothing, which he would afterwards send to the Kaba and have the Kaba draped with them.

Book 20, Number 20.44.150:

Yahya related to me from Malik that he asked Abdullah ibn Dinar what Abdullah ibn Umar used to do with the drapings of his animals when the Kaba began to be draped with the kiswa, and he said, "He gave them away as sadaqa."

Book 20, Number 20.44.151:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, about sacrificial animals, "Six-year-old camels, three-year-old cows and sheep, or older than these."

Book 20, Number 20.44.152:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar never used to tear the drapes of his sacrificial animals, and he would not drape them until he went from Mina to Arafa.

Book 20, Number 20.44.153:

Yahya related to me from Malik from Hisham ibn Urwa that his father used to say to his sons, "My sons, let none of you sacrifice any animal which he would be ashamed to sacrifice for a noble woman, for surely Allah is the noblest of noble ones, and the most deserving of those for whom things are chosen."

Section: What to Do with Sacrificial Animals (Hadys) if They get Injured or Stray

Book 20, Number 20.45.154:

Yahya related to me from Malik from Hisham ibn Urwa from his father that the man who was in charge of the sacrificial animal of the Messenger of Allah, may Allah bless him and grant him peace, said, "Messenger of Allah, what should I do with a sacrificial animal that gets injured?" The Messenger of Allah, may Allah bless him and grant him peace, said to him, "Slaughter any sacrificial animal that is injured. Then throw the garlands in its blood, and then give the people a free hand in eating it.

Book 20, Number 20.45.155:

Yahya related to me from Malik from Ibn Shihab that Said ibn al-Musayyab said, "If someone dedicates an animal voluntarily and then it is injured and he kills it and gives everyone a free hand in eating it, he owes nothing. If, however, he eats some of it himself, or tells certain other people to eat it, then he owes compensation."

Book 20, Number 20.45.156:

Yahya related to me from Malik from Thawr ibn Zayd ad-Dili from Abdullah ibn Abbas the same as that.

Book 20, Number 20.45.157:

Yahya related to me from Malik that Ibn Shihab said, "If someone dedicates an animal as compensation, or for a vow, or as the sacrifice for tamattu, and misfortune befalls it on the road, he must provide a substitute."

Book 20, Number 20.45.158:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "If someone dedicates an animal and then it goes astray or dies, he should provide a substitute, if it was for a vow. If, however, it was voluntary, then he can either provide a substitute for it or not, as he wishes."

Book 20, Number 20.45.159:

Yahya related to me from Malik that he had heard the people of knowledge say, "Someone who dedicates a sacrificial animal for compensation or as part of the hajj should not eat from it."

Section: The Animal (Hady) to be Sacriticed for Intercourse in Ihram

Book 20, Number 20.46.160:

Yahya related to me from Malik that he had heard that Umar ibn al-Khattab and AIi ibn Abi Talib and Abu Hurayra were asked about a man who had intercourse with his wife while he was in ihram on hajj. They said, "The two of them should carry on and complete their hajj. Then they must do hajj again in another year, and sacrifice an animal."

Malik added that AIi ibn Abi Talib said, "When they then go into ihram for hajj in a future year they should keep apart until they have completed their hajj."

Book 20, Number 20.46.161:

Yahya related to me from Malik from Yahya ibn Said that he heard Said ibn al-Musayyab asking a group of people, "What do you think about someone who has intercourse with his wife while he is in ihram?" and none of them answered him. Said said, "There is a man who has had intercourse with his wife while in ihram who has sent a message to Madina asking about it." Some of them said, "They should be kept apart until a future year," and Said ibn al-Musayyab said, "They should carry on and complete the hajj which they have spoiled, and then return home when they have finished. If another hajj comes upon them, they must do hajj and sacrifice an animal. They should go into ihram at the same place where they went into ihram for the hajj that they spoiled, and they should keep apart until they have finished their hajj."

Malik said, "They should both sacrifice an animal."

Malik said, about a man who had intercourse with his wife during hajj after he had come down from Arafa but before he had stoned the Jamra, "He must sacrifice an animal and do hajj again in another year. If, however, he had intercourse with his wife after he stoned the Jamra, he only has to do an umra and sacrifice an animal and he does not have to do another hajj."

Malik said, "What spoils a hajj or an umra and makes sacrificing an animal and repeating the hajj necessary is the meeting of the two circumcised parts, even if there is no emission. It is also made necessary by an emission if it is the result of bodily contact. I do not think that a man who remembers something and has an emission owes anything, and if a man were to kiss his wife and no emission were to occur from that, he would only have to sacrifice an animal. A woman in ihram who has intercourse with her husband several times during hajj or umra out of obedience to him only has to do another hajj and sacrifice an animal. That is if her husband has intercourse with her while she is doing hajj. If he has intercourse with her while she is doing umra, she must repeat the umra she has spoiled and sacrifice an animal."

Section: The Animal (Hady) to be Sacrificed for Missing the Hajj

Book 20, Number 20.47.162:

Yahya related to me from Malik that Yahya ibn Said said that Sulayman ibn Yasar told him that Abu Ayyub al-Ansari once set off to do hajj and then, when he reached an-Naziya, on the road to Makka, his riding beasts strayed. He reached Umar ibn al-Khattab on the day of sacrifice and told him what had happened and Umar said, "Do what someone doing umra would do, and then you can leave ihram, and then when the hajj next comes upon you, do it and sacrifice whatever animal is easy for you ."

Book 20, Number 20.47.163:

Malik related to me from Nafi from Sulayman ibn Yasar that Habbar ibn al-Aswad arrived on the day of sacrifice while Umar ibn al-Khattab was sacrificing his animal

and said, "Amir al-muminin, we made a mistake in our reckoning and we thought that today was the day of Arafa." Umar said, "Go to Makka, you and whoever else is with you, and do tawaf and sacrifice your animal if you have one with you. Then shave or cut your hair and return home. Then, in another year, do hajj and sacrifice an animal, and if you cannot find one, fast three days on hajj and seven when you return home."

Malik said, "Someone who intends to do hajj and umra together and then misses the hajj must do hajj again in another year, doing hajj with umra, and offer two sacrificial animals, one for doing the hajj with umra, and one for the hajj that he has missed."

Section: Intercourse with One's Wife Before Doing the Tawaf al-Ifada

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Book 20, Number 20.48.164:

Yahya related to me from Malik from Abu'z-Zubayr al-Makki from Ata ibn Abi Rabah that Abdullah ibn Abbas was asked about a man who had had intercourse with his wife while at Mina before he had done the tawaf al-ifada, and he told him to sacrifice an animal.

Book 20, Number 20.48.165:

Yahya related to me from Malik from Thawr ibn Zayd ad-Dili that lkrama, the mawla of Ibn Abbas, said, (and Thawr believed it to be from Abdullah ibn Abbas), "Someone who has intercourse with his wife before he has done the tawaf al-ifada should do an umra and sacrifice an animal."

Book 20, Number 20.48.166:

Yahya related to me from Malik that he had heard Rabia ibn Abi Abd ar-Rahman saying the same about that as what Ikrama related from Ibn Abbas.

Malik said, "That is what I like most out of what I have heard about the matter."

Malik was asked about a man who forgot the tawaf al-ifada until he had left Makka and returned to his community and he said, "I think that he should go back and do the tawaf al-ifada, as long as he has not had sexual relations with women. If, however, he has had sexual relations with women, then he should not only return and do the tawaf al-ifada, but he should also do an umra and sacrifice an animal. He should not buy theanimal in Makka and sacrifice it there, but if he has not brought one with him from wherever it was he set out to do umra, he should buy one in Makka and then take it outside the limits of the Haram and drive it from there to Makka and sacrifice it there."

Section: The Sacrificial Animals that are Considered Least Difficult

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Book 20, Number 20.49.167:

Yahya related to me from Malik from Jafar ibn Muhammad from his father that Ali ibn Abi Talib used to say, "The least difficult thing acceptable as a sacrificial animal is a sheep."

Book 20, Number 20.49.168:

Yahya related to me from Malik that he had heard that Abdullah ibn Abbas used to say, "The least difficult thing acceptable as a sacrificial animal is a sheep."

Malik said, "That is what I like most out of what I have heard about the matter, because Allah, the Blessed and Exalted, says in His Book, 'O you who trust, do not kill game while you are in ihram. Whoever of you kills it intentionally, there shall be repayment the like of what he has slain, from livestock, as shall be judged by two men of justice among you, a sacrificial animal which will reach the Kaba, or food for poor people, or the equivalent of that in fasting,' (Sura 5 ayat 95) and a sheep is one of the animals which is judged to be acceptable as a sacrifice. Allah has called it a sacrificial animal, and there is no dispute among us about the matter. How, indeed, could anyone be in doubt about the matter? A sheep is the kaffara for anything which does not reach the extent of something for which a camel or a cow would be the kaffara, and the kaffara for something which does not reach the extent of something for which a sheep would be the kaffara is fasting, or feeding poor people."

Book 20, Number 20.49.169:

Yahya related to me from Malik from Nafi that Abdullah ibn Urnar used to say, "The least thing that is acceptable as a sacrificial animal is a camel or a cow."

Book 20, Number 20.49.170:

Yahya related to me from Malik fromAbdullah ibn Abi Bakr that a mawla of Amir bint Abd ar-Rahman called Ruqayya told him that she once set out with Amra bint Abd ar-Rahman to go to Makka. She said, "Amra entered Makka on the eighth of Dhu'l-Hijja, and I was with her. She did tawaf of the House, and say between Safa and Marwa, and then entered the back of the mosque. She asked me, 'Do you have a pair of scissors with you?' and I said, 'No.' She said, 'Then try and find some for me.' I went and looked for some and brought them back and she cut some hair from the tresses of her head.Then, on the day of sacrifice, she slaughtered a sheep."

Section: Sacrificial Animals in General

Book 20, Number 20.50.171:

Yahya related to me from Malik from Sadaqa ibn Yasar al-Makki that a man from the people of Yemen, who had his hair braided, came to Abdullah ibn Umar and said, "Abu Abd arRahman, I have come to do just umra. "Abdullah ibn Umar said to him, "If I had been with you or you had asked me I would have told you to do hajj and umra together." The Yemeni answered, "I am doing what I am doing," and Abdullah ibn Umar said to him, "Cut off the locks that are hanging from your head and offer a sacrificial animal." A woman from Iraq said, "What should his sacrificial animal be, Abu Abd ar-Rahman?" and he said, "His sacrificial animal?" and she said to him, "What should his sacrificial animal be?" Abdullah ibn Umar said, "If I could only find a sheep to sacrifice, I would prefer to do that than to fast."

Book 20, Number 20.50.172:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "A woman in ihram should not comb her hair when she leaves ihram until she has cut some of the tresses of her hair, and if she has an animal for sacrifice with her she

should not cut off any of her hair until the animal has been killed."

Book 20, Number 20.50.173:

Yahya related to me from Malik that he had heard one of the people of knowledge say, "A man and wife should not share in one sacrificial animal. Each should sacrifice an animal separately."

Malik was asked about whether someone who had been entrusted with an animal for him to sacrifice on hajj, who went into ihram for umra, should sacrifice it when he came out of ihram or postpone it so that he sacrificed it at the time of the hajj while in the meantime he came out of ihram from his umra. He said, "He should postpone it so that he may sacrifice it at the time of the hajj, and meanwhile come out of ihram from his umra."

Malik said, "If it is judged that some-one must offer an animal for having killed game, or for any other reason, this animal can only be sacrificed at Makka, since Allah, the Blessed and Exalted, says, 'a sacrificial animal which will reach the Kaba.' The fasting or sadaqa that is considered equivalent to offering a sacrifice can be done outside Makka, and the person who is doing it can do it wherever he likes."

Book 20, Number 20.50.174:

Yahya related to me from Malik from Yahya ibn Said from Yaqub ibn Khalid al-Makhzumi that Abu Asma, the mawla of Abdullah ibn Jafar, told him that he was with Abdullah ibn Jafar when they set out once from Madina. At as-Suqya they passed by Husayn ibn Ali, who was ill at the time. Abdullah ibn Jafar stayed with him and then, when he feared that he was late (for the hajj) he left, and sent for Ali ibn Abi Talib and Asma bint Umays in Madina, and they came to Husayn. Then Husayn pointed to his head, and AIi told someone to shave his head. Then he sacrificed an animal for him at as-Suqya, killing a camel for him.

Yahya ibn Said added, "Husayn had set out with Uthman ibn Affan on that particular journey to Makka. "

Section: The Wuquf at Arata and Muzdalifa

Book 20, Number 20.51.175:

Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, said, "The whole of Arafa is a mawqif, except the middle of Urana, and the whole of Muzdalifa is a standing-place, except for the middle of Muhassir."

Book 20, Number 20.51.176:

Yahya related to me from Malik from Hisham ibn Urwa that Abdullah ibn az-Zubayr used to say, "Know that the whole of Arafa is a standing-place except for the middle of Urana, and that the wholeof Muzdalifa is a standing-place except for the middle of Muhassir."

Malik said, "Allah, the Blessed and Exalted says, 'There is to be no rafath, no fusuq and no jidal during the hajj.' " (Sura 2 ayat 197).

He added, "Rafath is sexual relations with women, and Allah knows best. Allah, the

Blessed and Exalted says, 'Rafath with your women is permitted to you on the night of the fast.' (Sura 2 ayat 197). Fusuq are sacrifices made to idols, and Allah knows best. Allah, the Blessed and Exalted, says, 'Or a fisq offered up to other than Allah.' (Sura 2 ayat 197) Jidal (arguing) during the hajj refers to when the Quraysh used to stand near the mashar al-haram at Quzah in Muzdalifa, while the Arabs and others would stand at Arafa, and they would argue about who was the more correct. Allah, the Blessed and Exalted, says, 'And we appointed a method of sacrifice for every nation, which they followed, so let them not dispute with you about the matter, and call to your Lord. Surely you are on a straight guidance.' (Sura 22 ayat 67) This is what jidal refers to in our opinion, and Allah knows best. This I have heard from the people of knowledge."

Section: Wuquf while Not in Wudu, and Wuquf on a Riding Beast

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Book 20, Number 20.52.177:

Malik was asked about whether a man could stand at Arafa, or at Muzdalifa, or stone the Jamras, or do say between Safa and Marwa if he was not in wudu, and he said, "Every practice in the hajj that a menstruating woman can take part in can be taken part in by a man who is not in wudu and there is nothing due from him for that. However, it is better for him to be in wudu for all those things, and he should not make a general practice of it."

Malik was asked whether a man who was riding should get down to do the standing at Arafa or if he could stand while mounted, and he said, "He can stand while mounted, unless he or his riding beast have an illness, in which case Allah is the one who most often accepts an excuse."

Section: The Wuquf at Arafa of Someone who Misses the Hajj

Book 20, Number 20.53.178:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "Someone who does not stand at Arafa on the night of Muzdalifa before the dawn breaks has missed the hajj, and someone who stands at Arafa on the night of Muzdalifa before the dawn breaks has caught the hajj."

Book 20, Number 20.53.179:

Yahya related to me from Malik from Hisham ibn Urwa that his father said, "Someone who does not stand at Arafa on the night of Muzdalifa

before the dawn breaks has missed the hajj, and some one who stands at Arafa on the night of Muzdalifa before the dawn breaks has caught the hajj.

Malik said, about a slave freed during the wuquf at Arafa, "His standing does not fulfil for him the hajj of Islam, except if he was not in ihram and then he went into ihram after he was freed and he stood at Arafa that same night before the dawn broke in which case that is enough for him. If, however, he did not go into ihram until after the dawn had broken, he is in the same position as someone who misses the hajj by not catching the standing at Arafa before the breaking of the dawn on the night of Muzdalifa, and he will have to do the hajj of Islam later."

Section: Sending Women and Children Ahead

Book 20, Number 20.54.180:

Yahya related to me from Malik from Nafj from Salim and Ubaydullah, two sons of Abdullah ibn Umar, that their father Abdullah ibn Umar used to send his family and children from Muzdalifa to Mina ahead of him so that they could pray subh at Mina and throw the stones before everyone (else) arrived.

Book 20, Number 20.54.181:

Yahya related to me from Malik from Yahya ibn Said from Ata ibn Abi Rabah that a mawla of Asma bint Abi Bakr told him, "We arrived at Mina with Asma bint Abi Bakr at the end of the night, and I said to her, 'We have arrived at Mina at the end of the night,' and she said, 'We used to do that with one who was better than you.' "

Book 20, Number 20.54.182:

Yahya related to me from Malik that he had heard that Talha ibn Ubaydullah used to send his family and children from Muzdalifa to Mina ahead of him.

Book 20, Number 20.54.183:

Yahya related to.me from Malik that he had heard one of the people of knowledge disapproving of stoning the jamra until after dawn on the day of sacrifice, as it was halal for whoever had thrown the stones to sacrifice.

Book 20, Number 20.54.184:

Yahya related to me from Malik from Hisham ibn Urwa that Fatima bint al-Mundhir told him that she used to see Asma bint Abi Bakrat Muzdalifa telling whoever led the subh prayer for her and her companions to pray it as soon as the dawn broke, after which she would mount and go to Mina without stopping at all.

Section: Going from Arafa to Muzdalifa

Book 20, Number 20.55.185:

Yahya related to me from Malik from Hisham ibn Urwa that his father said, "I was sitting with Usama ibn Zayd when some one asked him, 'How did the Messenger of Allah, may Allah bless him and grant him peace, travel when he went from Arafa to Muzdalifa during the farewell hajj?' and he replied, 'He went at a medium pace, but when he found a gap (in the crowds) he speeded up.' "

Book 20, Number 20.55.186:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to spur on his mount in the middle of Muhassir over the distance of a stone's throw.

Section: Sacrificing during the Hajj

Book 20, Number 20.56.187:

Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, said once at Mina, "This place (where I have

just sacrificed), and the whole of Mina, is a place of sacrifice," and he said once during umra, "This place of sacrifice" meaning Marwa, "and all the pathways of Makka and its roads are a place of sacrifice."

Book 20, Number 20.56.188:

Yahya related to me from Malik that Yahya ibn Said said that Amra bint Abd ar-Rahman told him that she had heard A'isha, umm al-muminin, saying, "We set out with the Messenger of Allah, may Allah bless him and grant him peace, when there were five nights left in Dhu'l-Qada and we assumed that we must be setting out for hajj. When we got near to Makka, the Messenger of Allah, may Allah bless him and grant him peace, told everyone that did not have a sacrificial animal with them to leave ihram after they had done tawaf of the House and say between Safa and Marwa."

A'isha added, "We were sent some beef on the day of sacrifice. I asked what it was and they said that the Messenger of Allah, may Allah bless him and grant him peace, had sacrificed for his wives."

Yahya ibn Said said, "I mentioned this hadith to Qasim ibn Muhammad and he said, 'She has given you the complete hadith, by Allah.' "

Book 20, Number 20.56.189:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that Hafsa, umm al-muminin, once said to the Messenger of Allah, may Allah bless him and grant him peace, "Why is it that everyone has left ihram and you still have not left ihram from your umra?" and he replied, "I have matted my hair and garlanded my sacrificial animal and will not leave ihram until I have sacrificed the animal."

Section: How to Make the Sacrifice

Book 20, Number 20.57.190:

190 Yahya related to me from Malik from Jafar ibn Muhammad from his father from Ali ibn Abi Talib that the Messenger of Allah, may Allah bless him and grant him peace, killed some of his sacrificial animals himself, and someone else killed the rest.

Book 20, Number 20.57.191:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "Someone who vows to sacrifice a camel or a cow to Allah should garland it with two sandals about its neck, and brand it by causing blood to flow from its side. He should then sacrifice it either at the House or at Mina on the day of sacrifice. There are no other correct places apart from those. However, someone who vows to slaughter a camel or a cow simply as a sacrifice can sacrifice it wherever he wishes."

Book 20, Number 20.57.192:

Yahya related to me from Malik from Hisham ibn Urwa that his father used to kill his sacrificial animals while they were standing.

Malik said, "No-one is permitted to shave his head until he has killed his sacrificial

animal, and no-one must sacrifice before dawn on the day of sacrifice. The things that should be done on the day of sacrifice are slaughtering, donning clothes, grooming the body generally (at-tafath) and shaving the head, and none of this may be done before the day of sacrifice."

Section: Shaving the Head

Book 20, Number 20.58.193:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "O Allah, have mercy on those who shave their hair." They said, "And those who shorten (their hair), Messenger of Allah." He said, "O Allah, have mercy on those who shave." They said, "And those who shorten, Messenger of Allah." He said, "And those who shorten."

Book 20, Number 20.58.194:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim that his father used to go into Makka by night when he was doing umra and do tawaf of the House and say between Safa and Marwa and delay the shaving until the morning, but he would not go back to the House and do tawaf again until he had shaved his head.

Abd ar-Rahman added, "Sometimes he would enter the mosque and do the witr prayer there without actually going near the House."

Malik said, "At-tafath is shaving the head, putting on normal clothes and things of that nature."

Yahya said that Malik was asked whether a man who forgot to shave (his head) at Mina during the hajj could shave in Makka, and he said, "That is permissible, but I prefer the shaving to be done at Mina."

Malik said, "What we are all agreed upon here (in Madina) is that no-one should shave his head or cut his hair until he has killed his sacrificial animal, if he has one, and things that are haram for him do not become halal for him until he leaves ihram at Mina on the day of sacrifice. This is because Allah, the Blessed and Exalted, says, 'Do not shave yourheads until the sacrificial animal has reached its destination. ' "

Section: Cutting the Hair

Book 20, Number 20.59.195:

Yahya related to me from Malik from Nafi that if Abdullah ibn Umar had finished the fast of Ramadan and intended to do hajj, he would not cut his hair or beard at all until he had done hajj.

Malik said, "It is not necessary for people to do the same."

Book 20, Number 20.59.196:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to trim his beard and moustache when he shaved at the end of a hajj or umra.

Book 20, Number 20.59.197:

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman that a man came to Qasim ibn Muhammad and said, "I did the tawaf al-ifada along with my wife, and then I went off onto a mountain path and approached my wife to make love to her, and she said, 'I have not cut my hair yet.' So I bit some of her hair off with my teeth and then had intercourse with her." Qasim laughed and said, "Tell her to cut her hair with some scissors."

Malik said, "To my liking an animal should be sacrificed in an instance such as this, because Abdullah ibn Abbas said, 'Whoever forgets any of his rites on hajj should sacrifice an animal.' "

Book 20, Number 20.59.198:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar once met a relative of his called al-Mujabbar who had done the tawaf al-ifada but, out of ignorance, had not shaved his head or cut his hair. Abdullah told him to go back and shave his head or cut his hair, and then go back and do the tawaf al-ifada.

Book 20, Number 20.59.199:

Yahya related to me from Malik that he had heard that when Salim ibn Abdullah intended to go into ihram he would call for some scissors and trim his moustache and beard before setting off and before going into ihram.

Section: Matting the Hair

Book 20, Number 20.60.200:

Yahya related to me from Malik from Nafi from 'Abdullah ibn 'Umar that Umar ibn al-Khattab said, "Someone who puts plaits in his hair should shave his head, and do not plait your hair in such a way that it seems you have matted it."

Book 20, Number 20.60.201:

Yahya related to me from Malik from Yahya ibn Said from Said ibn al-Musayyab that Umar ibn al-Khattab said, "Anyone who has braided his hair, or plaited it or matted it must shave his head."

Section: Doing the Prayer in the House, Shortening the Prayer, and Hastening the Khutba at Arafa

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Book 20, Number 20.61.202:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, entered the Kaba with Usama ibn Zayd, Bilal ibn Rabah and Uthman ibn Talha al-Hajabi and locked it behind him and stayed there for some time.

Abdullah said that he asked Bilal when he came out what the Messenger of Allah had done there and he said, "He positioned himself with one support to his left, two supports to his right, and three behind him (the house had six supports at that time) and then he prayed."

Book 20, Number 20.61.203:

Yahya related to me from Malik from Ibn Shihab that Salim ibn Abdullah said, "Abd al-Malik ibn Marwan wrote to al-Hajjaj ibn Yusuf telling him not to disagree with Abdullah ibn Umar about anything to do with the hajj. Then, when the day of Arafa came Abdullah ibn Umar went to him just after noon, and I went with him. He called out to him outside his tent, 'Where is this man?' and a-lHajjaj came out to him, wearing a blanket dyed with safflower, and said to him, 'What's up with you, Abu Abd ar-Rahman?' He said, 'Hurry up, if you want to follow the sunna.' Al-Hajjaj said, 'At this hour?' and he said, 'Yes.' Al-Hajjaj said, 'Wait until I have poured some water over myself, and then I will come out.' So Abdullah dismounted and waited until al-Hajjaj came out. He passed between me and my father and I said to him, 'If you want to accord with the sunna today, then make the khutba short, do not delay the prayer and do the prayer quickly.' Then he began looking at Abdullah ibn Umar to see if he would say the same thing, and when Abdullah saw that, he said, 'What Salim is saying is true.' "

20.64 Doing the Prayer at Mina on the Eighth Day of Dhu-l-Hijja, and the Jumua at Mina and Arafa

Book 20, Number 20.61.204:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to pray dhuhr, asr, maghrib, isha and subh at Mina. Then in the morning, after the sun had risen, he would go to Arafa .

Malik said, "What we are all agreed upon here (in Madina) is that the imam does not recite the Qur'an out loud in dhuhr on the day of Arafa, and that he gives a khutba to the people on that day, and that the prayer on the day of Arafa is really a dhuhr prayer, and even if it coincides with a jumua it is still a dhuhr prayer, but one which has been shortened because of travelling."

Malik said that the imam of the pilgrims should not pray the jumua prayer if the day of Arafa, the day of sacrifice or one of the three days after the day of sacrifice, was a Friday.

Section: Doing the Prayer at Muzdalifa

Book 20, Number 20.62.205:

Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, prayed maghrib and isha together at Muzdalifa.

Book 20, Number 20.62.206:

Yahya related to me from Malik from Musa ibn Uqba that Kurayb, the mawla of Ibn 'Abbas, heard Usama ibn Zayd say, "The Messenger ofAllah, may Allah bless him and grant him peace, left Arafa and then, when he reached ash-Shib, he dismounted and urinated and then did wudu, though not thoroughly. I said to him, 'It is time for the prayer, Messenger of Allah,' and he said 'The prayer is ahead of you,' and then mounted. When we arrived at Muzdalifa he dismounted and did wudu thoroughly. Then the iqama was said for the prayer and he prayed maghrib.

After that everyone settled his camel in its resting-place, and then the iqama for isha was said and he prayed it, without having prayed anything between the two."

Book 20, Number 20.62.207:

Yahya related to me from Malik from Yahya ibn Said from Adi ibn Thabit al-Ansari that Abdullah ibn Yazid al-Khatmi told him that Abu Ayyub al-Ansari told him that he prayed maghrib and isha together at Muzdalifa during the farewell hajj, with the Messenger of Allah, may Allah bless him and grant him peace.

Book 20, Number 20.62.208:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to pray maghrib and isha together at Muzdalifa.

Section: Doing the Prayer at Mina

Book 20, Number 20.63.209:

Malik said that the people of Makka who are doing hajj should shorten the prayer to two rakas when at Mina until they go back to Ma ka.

Book 20, Number 20.63.210:

Yahya related to me from Malik from Hisham ibn Urwa from his father that the Messenger of Allah, may Allah bless him and grant him peace, prayed four raka prayers with only two rakas when at Mina, and that Abu Bakr prayed them at Mina with only two rakas, and that Umar ibn al-Khattab prayed them at Mina with only two rakas, and that Uthman prayed them at Mina with only two rakas for half of his khalifate, and then later completed them.

Book 20, Number 20.63.211:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab that Umar ibn al-Khattab prayed two rakas with everybody when he arrived in Makka. Then, when he had finished, he said, "People of Makka, complete your prayer, because we are a group of travellers." Later, Umar ibn al-Khattab prayed two rakas with them at Mina, but we have not heard that he said anything to them on that occasion.

Book 20, Number 20.63.212:

Yahya related to me from Malik from Zayd ibn Aslam from his father that Umar ibn al-Khattab prayed two rakas with the people of Makka, and then, when he had finished, he said, "People of Makka, complete your prayer, becausewe are a group of travellers." Later, Umar prayed two rakas with them at Mina, but we have not heard that he said anything to them on that occasion.

Malik was asked whether the people of Makka should pray two rakas at Arafa or four, and whether the amir of the hajj, if he was a Makkan, should pray dhuhr and asr with four rakas or two, and also how the people of Makka who were living (at Mina) should pray, and he said, "The people of Makka should pray only two rakas at Arafa and Mina for as long as they stay there, and should shorten the prayer until they return to Makka. The amir of the hajj, if he is a Makkan, should also shorten

the prayer at Arafa and during the days of Mina. Anyone who is living at Mina as a resident should do the full prayer at Mina, and similarly anyone who lives at Arafa and is a resident there should do the full prayer at Arafa."

Section: The Prayer of the Visitor of Makka or Mina

Book 20, Number 20.64.213:

Yahya related to me that Malik said, "Someone who comes to Makka at or before the new moon of Dhu'l-Hij ja and goes into ihram for the hajj should do the full prayer until he leaves Makka for Mina, and then he should shorten the prayer. This is because he has decided to stay there for more than four nights."

Section: Saying the Takbir During the Days of Tashriq

Book 20, Number 20.65.214:

Yahya related to me from Malik from Yahya ibn Said that he had heard that on the day after the day of sacrifice Umar ibn al-Khattab went out a little after the sun had risen and said the takbir, and everyone repeated it after him. Then he went out a second time the same day when the sun was well up and said the takbir, and everyone repeated it after him. Then he went out a third time after mid-day and said the takbir, and everyone repeated it after him until it resounded from group to group until it reached the House and people knew that Umar had left to throw the stones.

Malik said, "What we do here (in Madina) is to say the takbir during the days of tashriq after each prayer. The first time is when the imam and everyone with him says the takbir after the dhuhr prayer on the day of sacrifice, and the last is when the imam and everyone with him says the takbir after subh on the last of the days of tashriq, after which he stops saying the takbir."

Malik said, "The takbirs during the days of tashriq should be done by both men and women, whether they are in a group or by themselves, at Mina or elsewhere, and all of the takbirs should be done. In this everyone follows the imam of the hajj and the people at Mina, because when everyone returns (to Makka) and comes out of ihram they keep the same people as imams while out of ihram (as they did when they were in ihram). Some one who is not doing hajj does not follow them except for the takbirs during the days of tashriq."

Malik said, "The 'limited number of days' are the days of tashriq."

Section: Doing the Prayer at al-Muarras and al-Muhassab

Book 20, Number 20.66.215:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, made his camel kneel down at al-Batha, which is at Dhu'l-Hulayfa, and prayed there. Nafi said, "Abdullah ibn Umar used to do that."

Malik said, "No-one should go past al-Muarras when he is returning from hajj without praying there. If he passes it at a time when prayer is not permissible he should stay there until prayer is permissible and then pray whatever he feels is appropriate. (This is) because I have heard that the Messenger of Allah, may Allah

bless him and grant him peace, stopped there to rest, and that Abdullah ibn Umar stopped his camel there also."

Book 20, Number 20.66.216:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to pray dhuhr, asr, maghrib and isha at al-Muhassab, and then enter Makka at night and do tawaf of the House.

Section: Staying Overnight at Makka on the Nights of Mina

Book 20, Number 20.67.217:

Yahya related to me from Malik that Nafi said, "They say that Umar ibn al-Khattab used to send men out to bring people in from beyond al-Aqaba."

Book 20, Number 20.67.218:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that Umar ibn al-Khattab said, "No-one doing hajj should spend the nights of Mina beyond al-Aqaba."

Book 20, Number 20.67.219:

Yahya related to me from Malik from Hisham ibn Urwa that his father said, talking about spending the nights of Mina at Makka, "No-one must spend the night anywhere except Mina."

Section: Stoning the Jamras

Book 20, Number 20.68.220:

Yahya related to me from Malik that he had heard that Umar ibn al-Khattab used to stop at the first two jamras for such a long time that someone standing up would get tired.

Book 20, Number 20.68.221:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to stop for a long time at the first two jamras saying, "Allah is greater", "Glory be to Allah", "Praise be to Allah", and making duas to Allah, but he did not stop at the jamrat al-Aqaba.

Book 20, Number 20.68.222:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say "Allah is greater" whenever he threw a pebble while stoning the jamra.

Book 20, Number 20.68.223:

Yahya related to me from Malik that he had heard some of the people of knowledge saying, "The pebbles used for stoning the jamras should be like the stones used as slingshot."

Malik said, "I like it better if they are a little larger than that."

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "Someone who is at Mina when the sun sets in the middle of the days of tashriq must not leave until he has stoned the jamras on the following day."

Book 20, Number 20.68.224:

Yahya related to me from Malik from Abd ar-Rahman ibn Qasim from his father that when people went to stone the jamras they would walk both going there and coming back. The first one to ride was Muawiya ibn Abi Sufyan.

Book 20, Number 20.68.225:

Yahya related to me from Malik that he asked Abd ar-Rahman ibn Qasim, "From where did Qasim stonethe jamrat al-Aqaba?"and he replied, "From wherever it was possible."

Yahya said that Malik was asked whether some one else could throw the stones for a child or a sick man and he said, "Yes, and a sick man should inquire as to when the stones will be thrown for him and then say the takbir while he is in the place where he is staying, bleeding. If a sick man regains his health during the days of tashriq, he should stone whatever stoning has been done for him and he must offer a sacrificial animal."

Malik said, "I do not consider that someone who stones the jamras or does say between Safa and Marwa without being in wudu has to repeat anything, but he should not make a general practice of it."

Book 20, Number 20.68.226:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to say, "The jamras should not be stoned during the three days until after the sun has passed the meridian."

Section: Indulgence with Respect to Stoning the Jamras

Book 20, Number 20.69.227:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Hazm from his father that Abu'l-Baddah ibn Asim ibn Adi told him from his father that the Messenger of Allah, may Allah bless him and grant him peace, allowed the camel-herders to spend the night outside of Mina, and they threw the stones (once) on the day of sacrifice, and (once) for the following day and the day after that, and (once) on the day when they left Mina.

Book 20, Number 20.69.228:

Yahya related to me from Malik that

Yahya ibn Said heard Ata ibn Abi Rabah mentioning that the camel-herders were allowed to throw the stones at night, and saying that this was in the early period (of Islam).

Malik said, "The explanation of the hadith where the Messenger of Allah, may

Allah bless him and grant him peace, allowed the camel-herders to delay the stoning of the jamras is, in our view, and Allah knows best, that they threw stones on the day of sacrifice, and then threw again two days later, which was the first possible day for leaving, and this throwing was for the day which had passed. They then threw again for the day itself, because it is only possible for someone to make up for something which is obligatory for him, and when something obligatory passes someone by (without him doing it) he must necessarily make it up afterwards (and not beforehand). So (in the case of the camel-herders), if it seemed appropriate for them to leave that day, they would have done all that they were supposed to do, and if they were to stay until the following day, they would throw stones with everybody else on the second and last day for leaving, and then leave."

Book 20, Number 20.69.229:

Yahya related to me from Malik from Abu Bakr ibn Nafi from his father that the daughter of one of Safiyya bint Abi Ubayd's brothers was bleeding after she had given birth to a child at Muzdalifa. She and Safiyya were delayed and did not arrive at Mina until after the sun had set on the day of sacrifice. Abdullah ibn Umar told them both to stone the jamra at the time they arrived and he did not think that they owed anything.

Yahya said that Malik was asked about some one who forgot to stone one of the jamras on one of the days of Mina until it was evening and he said, "He should throw the stones at whatever time of day or night he remembers, just as he would pray the prayer if he forgot it and then remembered it at any time of day or night. If he remembers (that he has not done the stoning) after he has returned to Makka, or after he has left, he must sacrifice an animal."

Book 20, Number 20.69.230:

Yahya related to me from Malik from Nafi and Abdullah ibn Dinar from Abdullah ibn Umar that Umar ibn al-Khattab gave a khutba to the people at Arafa and taught them the conduct of the hajj, and one of the things he said to them in his speech was, "When you get to Mina and have stoned the jamra then whatever is haram for someone doing the hajj becomes halal, except women and scent. No-one should touch women or scent until he has done tawaf of the House."

Book 20, Number 20.69.231:

Yahya related to me from Malik from Nafi and Abdullah ibn Dinar from Abdullah ibn Umar that Umar ibn al-Khattab said, "When someone has stoned the jamra and shaved his head or cut off some of his hair and sacrificed an animal, whatever was haram for him becomes halal, except women and scent, (which remain haram for him) until he has done tawaf of the House."

Section: A Menstruating Woman's Entering Makka

Book 20, Number 20.70.232:

Yahya related to me from Abd ar-Rahman ibn al-Qasim, from his father that A'isha, umm al-muminin, said, "We set out with the Messenger of Allah, may Allah bless him and grant him peace, in the year of the farewell hajj and we went into ihram for umra. Afterwards, the Messenger of Allah, may Allah bless him and grant him

peace, said, 'Whoever has a sacrificial animal with him should go into ihram for hajj and umra together, and he should not leave ihram without leaving ihram for both of them at the same time.' "

She continued "I was menstruating when I got to Makka, so I did not do tawaf of the House or say between Safa and Marwa. I complained to the Messenger of Allah, may Allah bless him and grant him peace, and he said, 'Undo your hair and comb it and leave the umra and go back into ihram for the hajj.' "

She said, "I did so, and when we had completed the hajj, the Messenger of Allah, may Allah bless him and grant him peace, sent me with Abd ar-Rahman ibn Abi Bakr as-Siddiq to at-Tanim and I performed an umra and he said, 'This is in place of your umra.' "

"Those who had entered ihram for the umra did tawaf of the House and say between Safa and Marwa, then left ihram. Then they did another tawaf after returning from Mina for their hajj, whereas those who entered ihram for the hajj or combined the hajj and the umra, only did one tawaf."

Yahya related the same as that to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr from A'isha.

Book 20, Number 20.70.233:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim from his father that A'isha said, "I came to Makka at the time of my period so I did not do tawaf of the House or go between Safa and Marwa. I complained to the Messenger of Allah, may Allah bless him and grant him peace, and he said, 'Do what the people doing hajj do except do not do tawaf of the House and go between Safa and Marwa until you are pure.' "

Malik said, concerning a woman who entered ihram for umra at the time of hajj, and she arrived in Makka during her period and so could not do tawaf of the House, "When she fears that the time (for hajj) is getting close, she gets into ihram for the hajj and sacrifices an animal. She is like someone who combines the hajj and the umra. One tawaf is enough for her. If a women starts her period after she has already done tawaf of the House and prayed, she does say between Safa and Marwa and stops at Arafa and Muzdalifa and stones the jamras but she does not do the tawaf al-ifada until she is pure and has finished her menses."

Section: The Tawaf al-Ifada of a Menstruating Woman

Book 20, Number 20.71.234:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim from his father from A'isha umm al-muminin that Safiyya bint Huyy began menstruating and so she mentioned it to the Messenger of Allah, may Allah bless him and grant him peace, and he asked, "Will she delay us?" and he was told, "She has already done the tawaf al-ifada," and he said, "Then she will not delay us. "

Book 20, Number 20.71.235:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Hazm from his father from Amra bint Abd ar-Rahman that A'isha umm al-muminin said to the

Messenger of Allah, may Allah bless him and grant him peace, "Messenger of Allah, Safiyya bint Huyy has begun her period," and the Messenger of Allah, may Allah bless him and grant him peace, said, "Perhaps she will delay us. Has she done tawaf of the House with you?" They said, "Of course." He said, "So you are free to leave."

Book 20, Number 20.71.236:

Yahya related to me from Malik from AbuRijal Muhammad ibn Abd ar-Rahman from Amra bint Abd ar-Rahman that when A'isha umm al-muminin was doing hajj with women who were expecting their periods, she would hurry them to do the tawaf al-ifada on the Day of Sacrifice. If they started to menstruate after the tawaf al-ifada she did not stop for them but left with them while they were menstruating.

Book 20, Number 20.71.237:

Yahya related to me from Malik from Hisham ibn Urwa from his father from A'isha umm al-muminin that the Messenger of Allah, may Allah bless him and grant him peace, mentioned Safiyya bint Huyy and he was told that she had started her period. The Messenger of Allah, may Allah bless him and grant him peace, said, "Perhaps she will delay us." They said, "Messenger of Allah, she has done tawaf," and the Messenger of Allah, may Allah bless him and grant him peace, said, "Then she will not delay us."

Malik said that Hisham said that Urwa said that A'isha said, "We have publicized that, so why do people make their women stay on to their inconvenience? If it were as they say, more than six thousand menstruating women would still be in Mina in the morning, all of them having already done the tawaf al-ifada.' "

Book 20, Number 20.71.238:

Yahya related to me from Malik from Abdullah ibn Abi Bakr from his father that Abu Salama ibn Abd ar-Rahman told him that Umm Sulaym bint Milhan asked the Messenger of Allah, may Allah bless him and grant him peace, for advice one time when she had begun menstruating, or had given birth to a child after she had done tawaf al-ifada on the Day of Sacrifice. The Messenger of Allah, may Allah bless him and grant him peace, gave her permission to leave.

Malik said, "A woman menstruating at Mina stays until she has done tawaf of the House. There is no escape from that for her. If she has already done the tawaf al-ifada and she starts to menstruate afterwards, she may leave for her country, since permission for the menstruating women to leave has been transmitted to us from the Messenger of Allah, may Allah bless him and grant him peace."

He added, "If a woman starts her period at Mina before she does the tawaf al-ifada, and the period lasts longer than usual, she has to stay longer than the time that bleeding would usually detain women."

Section: The Compensation (Fidya) for Killing Birds and Wild Animals in Ihram

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Book 20, Number 20.72.239:

Yahya related to me from Malik from Abu'z-Zubayr that Umar ibn al-Khattab gave

the judgement of a ram for a hyena, a female goat for a gazelle, a she-goat less than one year old for a rabbit, and a four month old kid for a jerboa.

Book 20, Number 20.72.240:

Yahya related to me from Malik from Abd al-Malik ibn Qurayr from Muhammad ibn Sirin that a man came to Umar ibn al-Khattab and said, "I was racing a friend on horseback towards a narrow mountain trail and we killed a gazelle accidently and we were in ihram. What is your opinion?" Umar said to a man by his side, "Come, so that you and I may make an assessment." They decided on a female goat for him, and the man turned away saying, "This amir al-muminin cannot even make an assessment in the case of a gazelle until he calls a man to decide with him." Umar overheard the man's words and called him and asked him, "Do you recite surat al-Ma'ida?" and he said, "No." He said, "Then do you recognize this man who has taken the decision with me?" and he said, "No." He said, "If you had told me that you did recite surat al-Ma'ida, I would have dealt you a blow." Then he said, "Allah the Blessed, the Exalted says in His Book, 'as shall be judged by two men of justice among you, a sacrificial animal to reach the Kaba' (Sura 5 ayat 95), and this is Abd ar-Rahman ibn Awf."

Book 20, Number 20.72.241:

Yahya related to me from Malik from Hisham ibn Urwa that his father used to say, "For the female of wild animals a cow is given and for the female of gazelles a sheep."

Book 20, Number 20.72.242:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab used to say, "For the pigeon of Makka, when it is killed, a sheep is due."

Malik said, that if a man of the people of Makka were to enter ihram for hajj or umra and there was a flock of Makkan pigeons in his house and they were shut in and died, "I think that he should pay for that with a sheep for each bird."

Book 20, Number 20.72.243:

Malik said, I still hear that when a person in ihram kills an ostrich, a camel is due."

Malik said, "I think that for an ostrich egg, one tenth of the price of a camel is due in the same way that there is a newly-born male or female slave for the unborn child of a free woman. The value of the newly-born slave is fifty dinars, and that is one-tenth of what the blood-money for the mother would be.

"Birds from the eagle family, eagles or falcons or vultures count as game for which a price is paid just as a price is paid for any game which a person in ihram kills. For everything for which a penalty is paid, the assessment is the same, whether the animal is old or young. The analogy of that is that the blood-money for the young and the old freeman, are considered to be the same."

Section: The Fidya for Killing Locusts in Ihram

Book 20, Number 20.73.244:

Yahya related to me from Malik from Zayd ibn Aslam that a man came to Umar ibn al-Khattab and said, "Amir al-muminin, I killed some locusts with my whip when I was in ihram," and Umar said to him, "Give a handful of food."

Book 20, Number 20.73.245:

Yahya related to me from Malik from Yahya ibn Said that a man came to Umar ibn al-Khattab and asked him about some locusts he had killed while he was in ihram. Umar said to Kab, "Come, let's decide." Kab said, "A dirham," and Umar said to Kab, "You can find dirhams. A date is better than a locust."

Book 20, Number 20.73.246:

Yahya related to me from Malik from Abd al-Karim ibn Malik al-Jazari from Abd ar-Rahman ibn Abi Layla from Kab ibn Ujra that one time he was with the Messenger of Allah, may Allah bless him and grant him peace, in ihram, and he was suffering from lice on his head. The Messenger of Allah, may Allah bless him and grant him peace, told him to shave his head, saying, "Fast three days, or feed six poor people, two mudds for each person, or sacrifice a sheep. If you do any of those it will be enough for you."

Book 20, Number 20.73.247:

Yahya related to me from Malik from Humayd bin Qays from Mujahid Abu'l Hajjaj from Ibn Abi Layla from Kab ibn Ujra that the Messenger of Allah, may Allah bless him and grant him peace, said to him, "Perhaps your pests are troubling you?" He replied that indeed they were, and the Messenger of Allah, may Allah bless him and grant him peace, said, "Shave your head and fast three days or feed six poor men or sacrifice a sheep."

Book 20, Number 20.73.248:

Yahya related to me from Malik that Ata ibn Abdullah al-Khurasani said that an old man from Suq al-Buram in Kufa had related to him that Kab ibn Ujra said, "The Messenger of Allah, may Allah bless him and grant him peace, came to me while I was blowing under a cooking pot belonging to my companions and my head and beard were full of lice. He took my forehead and said, 'Shave your hair and fast three days or feed six poor people.' The Messenger of Allah, may Allah bless him and grant him peace, was aware that I did not have anything with me to sacrifice.'"

Malik said, concerning paying compensation (fidya) for the relief of physical discomfort, "The custom concerning it is that no one pays compensation until he has done something which makes it obligatory to pay compensation just as making amends (kaffara) is only done when it has become obligatory for the one who owes it. The person can pay the compensation wherever he wishes, regardless of whether he has to sacrifice an animal or fast or give sadaqa -- in Makka or in any other town."

Malik said, "It is not correct for a person in ihram to pluck out any of his hair or to shave it or cut it until he has left ihram, unless he is suffering from an ailment of the head, in which case he owes the compensation Allah the Exalted has ordered. It is not correct for a person in ihram to cut his nails, or to kill his lice, or to remove them from his head or from his skin or his garment to the ground. If a person in

ihram removes lice from his skin or his garment, he must give away the quantity of food that he can scoop up with both hands. "

Malik said,"Anyone who, while in ihram, plucks out hairs from his nose or armpit or rubs his body with a depilatory agent or shaves the hair from around a head wound out of necessity or shaves his neck for the place of the cupping glasses, regardless of whether it is in forgetfulness or in ignorance, owes compensation in all these instances, and he must not shave the place of the cupping glasses. Someone, who, out of ignorance, shaves his head before he stones the jamra. must also pay compensation."

Section: What to Do for Forgetfulness in the Rituals

Book 20, Number 20.74.249:

Yahya related to me from Malik from Ayyub ibn Abi Tamima as-Sakhtayani from Said ibn Jubayr that Abdullah ibn Abbas said, "If someone forgets anything of the rituals or omits them intentionally, he must slaughter an animal." Ayyub added "I do not know if he said 'Omits' or 'forgets'."

Malik said, "If it is a hady that has to be slaughtered it may only be done in Makka, but if it is a sacrifice, it may be slaughtered wherever the one who owes the sacrifice prefers."

Section: Compensation (Fidya) in General

Book 20, Number 20.75.250:

Malik said, concerning someone who wishes to wear clothes that a person in ihram must not wear, or cut his hair, or touch perfume without necessity, because he finds it easy to pay the compensation, "No-one must do such things. They are only allowed in cases of necessity, and compensation is owed by whoever does them."

Malik was asked whether the culprit could choose for himself the method of compensation he makes, and he was asked what kind of animal was to be sacrificed, and how much food was to be given, and how many days were to be fasted, and whether the person could delay any of these, or if they had to be done immediately. He answered, 'Whenever there are alternatives in the Book of Allah for the kaffara, the culprit can choose to do whichever of the alternatives he prefers. As for the sacrifice - a sheep, and as for the fasting - three days. As for the food - feeding six poor men, for every poor man two mudds, by the first mudd, the mudd of the Prophet, may Allah bless him and grant him peace."

Malik said, "I have heard one of the people of knowledge saying, 'When a person in ihram throws something and hits game unintentionally and kills it, he must pay compensation. In the same way, someone outside the Haram who throws anything into the Haram and hits game he did not intend to, killing it, has to pay compensation, because the intentional and the mistaken are in the same position in this matter.' "

Malik said, concerning people who kill game together while they are muhrim or in the Haram, "I think that each one of them owes a full share. If a sacrificial animal is decided for them, each one of them owes one, and if fasting is decided for them, the full fasting is owed by each one of them. The analogy of that is a group of people

who kill a man by mistake and the kaffara for that is that each person among them must free a slave or fast two consecutive months."

Malik said, "Anyone who stones or hunts game after stoning the jamra and shaving his head but before he has performed the tawaf al-ifada, owes compensation for that game, because Allah the Blessed, the Exalted said, 'And when you leave ihram, then hunt,' and restrictions still remain for someone who has not done the tawaf al-ifada about touching perfume and women."

Malik said, "The person in ihram does not owe anything for plants he cuts down in the Haram and it has not reached us that anyone has given a decision of anything for it, but O how wrong is what he has done! "

Malik said, concerning some one who was ignorant of, or who forgot the fast of three days in the hajj, or who was ill during them and so did not fast them until he had returned to his community, "He must offer a sacrificial animal (hady) if he can find one and if not he must fast the three days among his people and the remaining seven after that."

Book 20, Number 20.75.251:

Yahya related to me from Malik from Ibn Shihab from clsa ibn Talha that Abdullah ibn Amr ibn al-As said, "The Messenger of Allah, may Allah bless him and grant him peace, stopped for the people at Mina, and they questioned him and a man came and said to him, 'Messenger of Allah, I was unclear about what to do and I shaved before sacrificing,' and the Messenger of Allah, may Allah bless him and grant him peace, said, 'Sacrifice, and don't worry.' Then another came to him and said 'Messenger of Allah, I was unclear about what to do and I sacrificed before throwing the stones.' He advised, 'Throw, and don't worry.' "

Amr continued, saying that the Messenger of Allah, may Allah bless him and grant him peace, was not asked about anything done before or after without his saying, "Do it, and don't worry."

Section: The Hajj in General

Book 20, Number 20.76.252:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that when the Messenger of Allah, may Allah bless him and grant him peace, returned from a military expedition or a hajj or an umra, he used to say three takbirs on every elevated part of the land, and then he used to say, "There is no god but Allah, alone, without partner. To Him belongs the Kingdom and to Him belongs the praise and He has power over everything. Returning, making tawba, serving, prostrating, praising our Lord. Allah has promised truly and given His slave victory and defeated the tribes alone."

Book 20, Number 20.76.253:

Yahya related to me from Malik from Ibrahim ibn Uqba from Kurayb the mawla of Abdullah ibn Abbas from Ibn Abbas that the Messenger of Allah, may Allah bless him and grant him peace, passed a woman in a litter and it was said to her, "This is the Messenger of Allah, may Allah bless him and grant him peace," and she took the forearms of a young boy who was with her and said, "Does this one have a hajj,

Messenger of Allah?" and he said, "Yes, and you have a reward."

Book 20, Number 20.76.254:

Yahya related to me from Malik from Ibrahim ibn Abi Abla from Talha ibn Ubaydullah ibn Kariyz that the Messenger of Allah, may Allah bless him and grant him peace, said, "Shaytan is not considered more abased or more cast out or more contemptible or more angry on any day than on the Day of Arafa. That is only because he sees the descent of the Mercy and Allah's disregard for great wrong actions. That is except from what he was shown on the Day of Badr." Someone said, "What was he shown on the Day of Badr, Messenger of Allah?" He said, "Didn't he see Jibril arranging the ranks of the angels?"

Book 20, Number 20.76.255:

Yahya related to me from Malik from Zihad ibn Abi Ziyad the mawla of Abdullah ibn Ayyash ibn Abi Rabia from Talha ibn Ubaydullah ibn Kariyz that the Messenger of Allah, may Allah bless him and grant him peace, said, "The most excellent dua is the dua on the Day of Arafa, and the best of what I and the prophets before me have said, is 'There is no god but Allah, alone, without partner.'"

Book 20, Number 20.76.256:

Yahya related to me from Malik from Ibn Shihab from Anas ibn Malik that the Messenger of Allah, may Allah bless him and grant him peace, entered Makka, in the Year of Victory, wearing a helmet, and when he took it off a man came to him and said, "Messenger of Allah, Ibn Khatal is clinging to the covers of the Kaba," and the Messenger of Allah, may Allah bless him and grant him peace, said, "Kill him."

Malik commented, "The Messenger of Allah, may Allah bless him and grant him peace, was not in ihram at the time, and Allah knows best."

Book 20, Number 20.76.257:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar was coming from Makka and when he was at Qudayd, news came to him from Madina and he returned and entered Makka without ihram.

Yahya related the same as that to me from Malik from Ibn Shihab.

Book 20, Number 20.76.258:

Yahya related to me from Malik from Muhammad ibn Amr ibn Halhala ad-Dili from Muhammad ibn lmran al-Ansari that his father said that Abdullah ibn Umar came upon him while he stopped for a rest under a tall tree on the road to Makka, and he said, "What has made you stop under this tall tree?" He replied that he sought it's shade. Abdullah ibn Umar said, "Anything besides that?" and he said, "No, that was the only. reason he stopped for a rest," and Abdullah ibn Umar said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'If you are between al-Akhshabayn (which are two mountains) near Mina,' indicating the east with his outspread hand, 'you will find a valley called as-Surar with a tree in it beneath which the umbilical cords of seventy prophets have been cut.' "

Book 20, Number 20.76.259:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Hazm from Ibn

Abi Mulayka that Umar ibn al-Khattab passed a leprous woman doing tawaf of the House, and he said to her, "Slave of Allah, do not make people uneasy. Better that you stay in your house," so she did so. A man passed by her after that and said to her, "The one who forbade you has died, so come out," and she replied, "I am not going to obey him when he is alive and disobey him when he is dead."

Book 20, Number 20.76.260:

Yahya related to me from Malik that he had heard that Abdullah ibn Abbas used to say that the area between the corner of the Black Stone and the door of the Kaba was called al-Multazam.

Book 20, Number 20.76.261:

Yahya related to me from Malik that Yahya ibn Said heard Muhammad ibn Yahya ibn Habban mentioning that a certain man passed Abu Dharr at ar-Rabadha (which was about 30 miles from Madina) and Abu Dharr asked him, "Where are you heading to?" and he replied, "I am intending to do hajj." Abu Dharr questioned, "Has anything else brought you out?" and he said, "No," so Abu Dharr said "Resume what you are doing wholeheartedly."

The man related, "I went on till I came to Makka and I stayed as long as Allah willed. Suddenly, one time, I was with a crowd of people thronging about a man and I pushed through the people to him and it was the old man that I had come across at ar-Rabadha. When he saw me, he recognized me and said, 'Ah, you have done what I told you.' "

Book 20, Number 20.76.262:

Yahya related to me from Malik that he asked Ibn Shihab about making a condition in the hajj that one could leave ihram at any place where an obstacle befell one and he said, "Does anyone do that?' and disapproved of it.

Malik was asked whether a man could cut plants from the Haram for his mount, and he said, "No."

Section: The Hajj of a Woman without a Mahram

Book 20, Number 20.77.263:

Malik said, concerning a woman who had never been on hajj, "If she doesn't have a mahram, or if she has, but he cannot come with her, she does not abandon Allah's making of the hajj obligatory for her. Let her go in a group of women."

Section: Fasting in at-Tamattu

Book 20, Number 20.78.264:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr that A'isha umm al-muminin used to say, "Someone performing hajj at-tamattu who

does not have a sacrificial animal fasts (three days) from the time he enters ihram for the hajj till the Day of Arafa, and if he does not fast then, he fasts the days of Mina."

Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah that Abdullah ibn Umar used to say the same concerning that, as the words of A'isha, may Allah the Exalted be pleased with her.

Translation of Malik's Muwatta, Book 21:

Jihad

Section: Stimulation of Desire for Jihad

Book 21, Number 21.1.1:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said "Someone who does jihad in the way of Allah is like someone who fasts and prays constantly and who does not slacken from his prayer and fasting until he returns."

Book 21, Number 21.1.2:

Yahya related to me from Malik from Abu'z Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Allah guarantees either the Garden or a safe return to his home with whatever he has obtained of reward or booty, for the one who does jihad in His way, if it is solely jihad and trust in his promise that brings him out of his house."

Book 21, Number 21.1.3:

Yahya related to me from Malik from Zayd ibn Aslam from Abu Salih as-Samman from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Horses are a reward for one man, a protection for another, a burden for another. The one who has them as a reward is the one who dedicates them for use in the way of Allah, and tethers them in a meadow or grassland. Whatever the horse enjoys of the grassland or meadow in the length of its tether are good deeds for him. If it breaks its tether and goes over a hillock or two, its tracks and droppings are good deeds for him. If it crosses a river and drinks from it while he did not mean to allow it to drink it, that counts as good deeds for him, and the horse is a reward for him.

Another man uses his horse to gain self reliance and up-standingness and does not forget Allah's right on their necks and backs (i.e. he does not ill treat or over-work them). Horses are a protection for him .

Another man uses them out of pride to show them off and in hostility to the people of Islam. They are a burden on that man."

The Messenger of Allah, may Allah bless him and grant him peace, was asked about donkeys, and he said, "Nothing has been revealed to me about them except this single all-inclusive ayat, 'Whoever does an atom of good will see it, and whoever does an atom of evil, will see it.' " (Sura 99 Ayats 7,8) .

Book 21, Number 21.1.4:

Yahya related to me from Abdullah ibn Abd ar-Rahman ibn Mamar al-Ansari that Ata ibn Yasar said that the Messenger of Allah, may Allah bless him and grant him

peace, said, "Shall I tell you who has the best degree among people? A man who takes the rein of his horse to do jihad in the way of Allah. Shall I tell you who has the best degree among people after him? A man who lives alone with a few sheep, performs the prayer, pays the zakat, and worships Allah without associating anything with him."

Book 21, Number 21.1.5:

Yahya related to me from Malik that Yahya ibn Said said, "Ubada ibn al-Walid ibn Ubada ibn as-Samit informed me from his father that his grandfather (Ubada) said, 'We made a contract with the Messenger of Allah, may Allah bless him and grant him peace, to hear and obey in ease and hardship, enthusiasm and reluctance, and not to dispute with people in authority and to speak or establish the truth wherever we were without worrying about criticism.'"

Book 21, Number 21.1.6:

Yahya related to me from Malik that Zayd ibn Aslam had said that Ubayda ibn al-Jarrah had written to Umar ibn al-Khattab mentioning to him a great array of Byzantine troops and the anxiety they were causing him. Umar ibn al-Khattab wrote in reply to him, "Whatever hardship befalls a believing slave, Allah will make an opening for him after it, and a hardship will not overcome two eases. Allah the Exalted says in His Book, 'O you who trust, be patient, and vie in patience; be steadfast and fear Allah, perhaps you will profit.' " (Sura 3 ayat 200).

Section: Prohibition against Travelling with the Qur'an in Enemy Territory

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Book 21, Number 21.2.7:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said that the Messenger of Allah, may Allah bless him and grant him peace, forbade travelling with a Qur'an in the land of the enemy. Malik commented, "That is out of fear that the enemy will get hold of it."

Section: Prohibition against Killing Women and Children in Military Expeditions

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Book 21, Number 21.3.8:

Yahya related to me from Malik from Ibn Shihab that a son of Kab ibn Malik (Malik believed that ibn Shihab said it was Abd ar-Rahman ibn Kab) said, "The Messenger of Allah, may Allah bless him and grant him peace, forbade those who fought ibn Abi Huqayq (a treacherous jew from Madina) to kill women and children. He said that one of the men fighting had said, 'The wife of ibn Abi Huqayq began screaming and I repeatedly raised my sword against her. Then I would remember the prohibition of the Messenger of Allah, may Allah bless him and grant him peace, so I would stop. Had it not been for that, we would have been rid of her.' "

Book 21, Number 21.3.9:

Yahya related to me from Malik from Nafi from Ibn Umar that the Messenger of

Allah, may Allah bless him and grant him peace, saw the corpse of a woman who had been slain in one of the raids, and he disapproved of it and forbade the killing of women and children.

Book 21, Number 21.3.10:

Yahya related to me from Malik from Yahya ibn Said that Abu Bakr as-Siddiq was sending armies to ash-Sham. He went for a walk with Yazid ibn Abi Sufyan who was the commander of one of the battalions. It is claimed that Yazid said to Abu Bakr, "Will you ride or shall I get down?" Abu Bakrsaid, "I will not ride and you will not get down. I intend these steps of mine to be in the way of Allah."

Then Abu Bakr advised Yazid, "You will find a people who claim to have totally given themselves to Allah. Leave them to what they claim to have given themselves. You will find a people who have shaved the middle of their heads, strike what they have shaved with the sword.

"I advise you ten things: Do not kill women or children or an aged, infirm person. Do not cut down fruit-bearing trees. Do not destroy an inhabited place. Do not slaughter sheep or camels except for food. Do not burn bees and do not scatter them. Do not steal from the booty, and do not be cowardly."

Book 21, Number 21.3.11:

Yahya related to me from Malik that he had heard that Umar ibn Abd al-Aziz wrote to one of his governors, "It has been passed down to us that when the Messenger of Allah, may Allah bless him and grant him peace, sent out a raiding party, he would say to them, 'Make your raids in the name of Allah in the way of Allah. Fight whoever denies Allah. Do not steal from the booty, and do not act treacherously. Do not mutilate and do not kill children.' Say the same to your armies and raiding parties, Allah willing. Peace be upon you."

Section: Fulfilling Safe Conduct

Book 21, Number 21.4.12:

Yahya related to me from Malik from a man of Kufa that Umar ibn al-Khattab wrote to a lieutenant of an army which he had sent out, "I have heard that it is the habit of some of your men to chase an unbeliever till he takes refuge in a high place. Then one man tells him in Persian not to be afraid, and when he comes up to him, he kills him. By He in whose hand my self is, if I knew someone who had done that, I would strike off his head."

Yahya said, I heard Malik say, "This tradition is not unanimously agreed upon, so one does not act on it."

Malik when asked whether safe conduct promised by gesture had the same status as that promised by speech, said, "Yes. I think that one can request an army not to kill someone by gesturing for safe conduct, because as far as I am concerned, gesture has the same status as speech. I have heard that Abdullah ibn Abbas said, 'There is no people who betray a pledge, but that Allah gives their enemies power over them.' "

Section: Giving in the Way of Allah

Book 21, Number 21.5.13:

Yahya related to me from Malik from Nafi that when Abdullah ibn Umar gave something in the way of Allah, he would say to its owner, "When you reach Wadi'l-Qura, (on the outskirts of Madina) then it is your affair."

Book 21, Number 21.5.14:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab used to say, "When a man is given something to use in a military expedition, and he brings it to the battlefield, it is his."

Malik was asked about a man who pledged himself to go on a military campaign, equipped himself,and when he wanted to go out, one or both of his parents prevented him. He said, "He should not contradict them. Let him put it off for another year. As for the equipment, I think that he should store it until he needs it. If he fears that it will spoil, let him sell it and keep its price so that he can readily buy what is needed fora military expedition. If he is well-to-do, he will find the like of his equipment when he goes out, so let him do what he likes with his equipment."

Section: Booty from War in General

Book 21, Number 21.6.15:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, sent a raiding party which included Abdullah ibn Umar near Najd. They plundered many camels and their portions were twelve or eleven camels each. They divided it up camel by camel.

Book 21, Number 21.6.16:

Yahya related to me from Malik from Yahya ibn Said that he heard Said ibn al-Musayyab say, "When people in military expeditions divided the spoils, they made a camel equal to ten sheep."

Malik said about the paid labourer in military expeditions, "If he is present at the battle and is with the people in the battle and he is a free man, he has his share. If he is not present, he has no share."

Malik summed up, "I think that the booty is only divided among free men who have been present at the battle. "

Section: Things on Which the Tax of One Fifth (Khumus) is Not Obligatory

Book 21, Number 21.7.16a:

Malik said about enemy soldiers who were found on the seashore of a Muslim land, and they claimed that they were merchants and that the sea had driven them ashore, while the Muslims were not able to verify any of that except that their ships were damaged, or they were thirsty and had disembarked without the permission of the Muslims, "I think that it is up to the imam to give his opinion about them, and I do not think that the tax of one fifth is taken from them."

Section: What It is Permissible for the Muslims to Eat Before the Spoils are Divided

Book 21, Number 21.8.16b:

Malik said, "I do not see that there is any harm in the Muslims eating whatever food they come across in enemy territory before the spoils are divided."

Malik said, "I think that any camels, cattle and sheep (taken as booty) are considered as food which the Muslims can eat in enemy territory. If they could not be eaten until the people had gathered for the division and the spoils had been distributed among them, that would be harmful for the army. I do not see any objection to eating such things within acceptable limits. I do not think, however, that anyone should store up any of it to take back to his family."

Malik was asked whether it was proper for a man who obtained food in enemy territory and ate some of it and made provision so that there was some of it left over to keep and eat with his family, or to sell before he had come to his country and make use of its price. He said, "If he sells it while he is on a military expedition, I think that he should put its price into the booty of the Muslims. If he takes it back to his country, I see no objection to his eating it and using it if it is a small insignificant thing."

Section: Returning to the Owner What has been Captured by the Enemy Before the Spoils are Divided

Book 21, Number 21.9.17:

Yahya related to me from Malik that it reached him that a slave of Abdullah ibn Umar escaped and one of his horses wandered off, and the idol worshippers seized them. Then the Muslims recaptured them, and they were returned to Abdullah ibn Umar, before the division of the spoils took place.

I heard Malik say about muslim property that had been seized by the enemy, "If it is noticed before the distribution, then it is returned to itsowner. Whatever has already been distributed is not returned to anyone."

Malik, when asked about a man whose young male slave was taken by the idol worshippers and then the Muslims re-captured him, said, "The owner is more entitled to him without having to pay his price or value or having to incur any loss before the distribution takes place. If the distribution has already taken place then I think that the slave belongs to his master for his price if the master wants him back."

Regarding an umm walad of a Muslim man who has been taken by the idol worshippers and then recaptured by the Muslims and allotted in the distribution of spoils and then recognised by her master after the distribution, Malik said, "She is not to be enslaved. I think that the Imam should pay a ransom for her for her master. If he does not do it, then her master must pay a ransom for her and not leave her. I do not think that she should be made a slave by whoever takes her and intercourse with her is not halal. She is in the position of a free woman because her master would be required to pay compensation if she injured somebody and so she is in the same position (as a wife). He must not leave the mother of his son to be enslaved

nor may intercourse with her be made halal."

Malik was asked about a man who went to enemy territory to pay ransom or to trade, and he bought a free man or a slave, or they were given to him. He said, "As for the free man, the price he buys him for is a debt against the man and he is not made a slave. If the captive is given to him freely, he is free and owes nothing unless the man gave something in recompense for him. That is a debt against the free man, the same as if a ransom had been paid for him. As for a slave, his former master can choose to take him back and pay his price to the man who bought him or he can choose to leave him, as he wishes. If he was given to the man, the former master is more entitled to him, and he owes nothing for him unless the man gave something for him in recompense. Whatever he gave for him is a loss against the master if he wants him back."

Section: Stripping the Slain of their Personal Effects in the Booty

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Book 21, Number 21.10.18:

Yahya related to me from Malik from Yahya ibn Said from Amr ibn Kathir ibn Aflah from Abu Muhammad, the mawla of Abu Qatada that Abu Qatada ibn Ribi said, "We went out with the Messenger of Allah, may Allah bless him and grant him peace, in the year of Hunayn. When the armies met, the Muslims were put in disarray. I saw a man from the idol worshippers who had got the better of one of the Muslims, so I circled round and came up behind him, and struck him with a sword on his shoulder-blade. He turned to me and grabbed me so hard that I felt the smell of death in it. Then death overcame him, and he let go of me."

He continued, "I met Umar ibn al-Khattab and said to him, 'What's going on with the people?' He replied, 'The Command of Allah.' Then the people took hold of the battle and the Messenger of Allah, may Allah bless him and grant him peace, said, 'Whoever has killed one of the dead and can prove it, can strip him of his personal effects.' I stood up and said, 'Who will testify for me?' and then I sat down. The Messenger of Allah repeated, 'Whoever has killed one of the dead and can prove it, can strip him of his personal effects.' I stood up and said, 'Who will testify for me?' then I sat down. Then he repeated his statement a third time, so I stood up, and the Messenger of Allah, may Allah bless him and grant him peace, said, 'What's the matter with you, Abu Qatada?' So I related my story to him. A man said, 'He has spoken the truth, Messenger of Allah. I have the effects of that slain person with me, so give him compensation for it, Messenger of Allah.'

Abu Bakr said, 'No, by Allah! He did not intend that one of the lions of Allah should fight for Allah and His Messenger and then give you his spoils.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'He has spoken the truth, hand it over to him.' He gave it to me, and I sold the breast-plate and I bought a garden in the area of the Banu Salima with the money. It was my first property, and I acquired it in Islam."

Book 21, Number 21.10.19:

Yahya related to me from Malik from Ibn Shihab that al-Qasim ibn Muhammad said that he had heard a man asking ibn Abbas about booty. Ibn Abbas said, "Horses are part of the booty and personal effects are as well."

Then the man repeated his question, and Ibn Abbas repeated his answer. Then the

man said, "What are the spoils which He, the Blessed, the Exalted, mentioned in His Book?" He kept on asking until Ibn Abbas was on the verge of being annoyed, then Ibn Abbas said, "Do you know who this man is like? Ibn Sabigh, who was beaten by Umar ibn al-Khattab because he was notorious for asking foolish questions."

Yahya said that Malik was asked whether someone who killed one of the enemy could keep the man's effects without the permission of the Imam. He said, "No one can do that without the permission of the Imam. Only the Imam can make ijtihad. I have not heard that the Messenger of Allah, may Allah bless him and grant him peace, ever said, 'Whoever kills someone can have his effects,' on any other day than the day of Hunayn."

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Section: Awarding Bonuses from the Tax of One Fifth (Khumus)

Book 21, Number 21.11.20:

Yahya related to me from Malik from Abu'z-Zinad that Said ibn al-Musayyab said, "People used to be given bonuses from the Khumus."

Malik said, "That is the best of what I have heard on the matter."

Malik was asked about bonuses and whether they were taken from the first of the spoils, and he said, "That is only decided according to the ijtihad of the Imam. We do not have a known reliable command about that other than it is up to the ijtihad of the Sultan. I have not heard that the Messenger of Allah, may Allah bless him and grant him peace, gave bonuses in all his raids. I have only heard that he gave bonuses in one of them, namely the day of Hunayn. It depends on the ijtihad of the Imam whether they are taken from the first of the spoils or what is after it."

Section: The Share of the Spoils Allotted to Cavalry in Military Expeditions

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Book 21, Number 21.12.21:

Yahya related to me that Malik said that he had heard that Umar ibn Abd al-Aziz used to say, "The man on horse-back has two shares, and the man on foot has one."

Malik added, "I continue to hear the same."

Malik, when asked whether a man who was present with several horses took a share for all of them, said, "I have never heard that. I think that there is only a share for the horse on which he fought."

Malik said, "I think that foreign horses and half-breeds are considered as horses because Allah, the Blessed, the Exalted, said in His Book, 'All horses, and mules, and asses, for you to ride, and as an adornment.' (Sura16 ayat 8). He said, the Mighty, the Majestic, 'Make ready for them whatever force and strings of horses you can, to terrify thereby the enemy of Allah and your enemy.' (Sura 8 ayat 60). I think that foreign breeds and half-breeds are considered as horses if the governor accepts them."

Said ibn al-Musayyab was asked about working horses, and whether there was zakat on them. He said, "Is there any zakat on horses.?"

Section: Stealing from the Spoils

Book 21, Number 21.13.22:

Yahya related to me from Malik from Abd ar-Rahman ibn Said from Amr ibn Shuayb that when the Messenger of Allah, may Allah bless him and grant him peace, came back from Hunayn heading for al-Jiirrana, the people crowded around so much to question him that his she-camel backed into a tree, which became entangled in his cloak and pulled it off his back. The Messenger of Allah, may Allah bless him and grant him peace, said, "Return my cloak to me. Are you afraid that I will not distribute among you what Allah has given you as spoils. By He in whose hand my self is! Had Allah given you spoils equal to the number of acacia trees on the plain of Tihama, I would have distributed it among you. You will not find me to be miserly, cowardly, or a liar." Then the Messenger of Allah, may Allah bless him and grant him peace, got down and stood among the people, and said, "Hand over even the needle and thread, for stealing from the spoils is disgrace, fire, ignominy on the Day of Rising for people who do it." Then he took a bit of camel fluff or something from the ground and said, "By He in whose hand my self is! What Allah has made spoils for you is not mine - even the like of this! - except for the tax of one fifth, and the tax of one fifth is returned to you."

Book 21, Number 21.13.23:

Yahya related to me from Malik from Yahya ibn Said from Muhammad ibn Yahya ibn Habban from Ibn Abi Amra that Zayd ibn Khalid al-Juhani said, "A man died on the day of Hunayn, and they mentioned him to the Messenger of Allah, may Allah bless him and grant him peace." Zayd claimed that the Messenger of Allah, may Allah bless him and grant him peace, said, "You pray over your companion." (i.e. he would not pray himself). The people's faces dropped at that. Zayd claimed that the Messenger of Allah, may Allah bless him and grant him peace, said, "Your companion stole from the spoils taken in the way of Allah." Zayd said, "So we opened up his baggage and found some Jews' beads worth about two dirhams."

Book 21, Number 21.13.24:

Yahya related to me from Malik from Yahya ibn Said from Abdullah ibn al-Mughira ibn Abi Burda al-Kinani that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, came to the people in their tribes and made dua for them, but left out one of the tribes. Abdullah related, "The tribe found an onyx necklace in the saddle-bags of one of their men. The Messenger of Allah, may Allah bless him and grant him peace, came to them, and then did the takbir over them as one does the takbir over the dead."

Book 21, Number 21.13.25:

Yahya related to me from Malik from Thawr ibn Zayd ad-Dili from Abu'l-Ghayth Salim, the mawla of ibn Muti that Abu Hurayra said, "We went out with the Messenger of Allah, may Allah bless him and grant him peace, in the yearof Khaybar. We did not capture any gold or silver except for personal effects, clothes, and baggage. Rifaa ibn Zayd presented a black slave boy to the Messenger of Allah, may Allah bless him and grant him peace, whose name was Midam. The Messenger of Allah, may Allah bless him and grant him peace, made for Wadi'l-Qura, and

when he arrived there, Midam was unsaddling the camel of the Messenger of Allah, may Allah bless him and grant him peace, when a stray arrow struck and killed him. The people said, 'Good luck to him! The Garden!' The Messenger of Allah said, 'No! By He in whose hand my self is! The cloak which he took from the spoils on the Day of Khaybar before they were distributed will blaze with fire on him.' When the people heard that, a man brought a sandal-strap or two sandal-straps to the Messenger of Allah, may Allah bless him and grant him peace. The Messenger of Allah, may Allah bless him and grant him peace, said, 'A sandal-strap or two sandal-straps of fire!' "

Book 21, Number 21.13.26:

Yahya related to me from Malik from Yahya ibn Said that he had heard that Abdullah ibn Abbas said, "Stealing from the spoils does not appear in a people but that terror is cast into their hearts. Fornication does not spread in a people but that there is much death among them. A people do not lessen the measure and weight but that provision is cut off from them. A people do not judge without right but that blood spreads among them. A people do not betray the pledge but that Allah gives their enemies power over them."

Section: The Martyrs in the Way of Allah

Book 21, Number 21.14.27:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "By He in whose hand my self is! I would like to fight in the way of Allah and be killed, then be brought to life again so I could be killed, and then be brought to life again so I could be killed." Abu Hurayra said three times, "I testify to it by Allah!"

Book 21, Number 21.14.28:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Allah laughs at two men. One of them kills the other, but each of them will enter the Garden: one fights in the way of Allah and is killed, then Allah turns to the killer, so he fights (in the way of Allah) and also becomes a martyr."

Book 21, Number 21.14.29:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "By He in whose hand my self is! None of you is wounded in the way of Allah - and Allah knows best who is wounded in HisWay, but that when the Day of Rising comes, blood will gush forth from his wound. It will be the colour of blood, but its scent will be that of musk."

Book 21, Number 21.14.30:

Yahya related to me from Malik from Zayd ibn Aslam that Umar ibn al-Khattab used to say, "O Allah! Do not let me be slain by the hand of a man who has prayed a single prostration to You with which he will dispute with me before You on the Day of Rising!"

Book 21, Number 21.14.31:

Yahya related to me from Malik from Yahya ibn Said from Said al-Maqburi from Abdullah ibn Abi Qatada that his father had said that a man came to the Messenger of Allah, may Allah bless him and grant him peace, and said, "O Messenger of Allah! If I am killed in the way of Allah, expectant for reward, sincere, advancing, and not retreating, will Allah pardon my faults?" The Messenger of Allah, may Allah bless him and grant him peace, said, "Yes." When the man turned away, the Messenger of Allah, may Allah bless him and grant him peace, called him - or commanded him and he was called to him. The Messenger of Allah, may Allah bless him and grant him peace, said to him, "What did you say?" He repeated his words to him, and the Prophet, may Allah bless him and grant him peace, said to him, "Yes, except for the debt. Jibril said that to me."

Book 21, Number 21.14.32:

Yahya related to me from Malik from Abu'n-Nadr, the mawla of Umar ibn Ubaydullah that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, said over the martyrs of Uhud, "I testify for them." Abu Bakr as-Siddiq said, "Messenger of Allah! Are we not their brothers? We entered Islam as they entered Islam and we did jihad as they did jihad." The Messenger of Allah, may Allah bless him and grant him peace, said, "Yes, but I do not know what you will do after me." Abu Bakr wept profusely and said, "Are we really going to out-live you!"

Book 21, Number 21.14.33:

Yahya related to me from Malik that Yahya ibn Said said, "The Messenger of Allah, may Allah bless him and grant him peace, was sitting by a grave which was being dug at Madina. A man looked into the grave and said, 'An awful bed for the mumin. 'The Messenger of Allah, may Allah blesshim and grant him peace, said, 'Evil? What you have said is absolutely wrong.'

The man said, 'I didn't mean that, Messenger of Allah. I meant being killed in the way of Allah.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'Being killed in the way of Allah has no like! There is no place on the earth which I would prefer my grave to be than here (meaning Madina). He repeated it three times.' "

Section: Things in which Martyrdom Lies

Book 21, Number 21.15.34:

Yahya related to me from Malik from Zayd ibn Aslam that Umar ibn al-Khattab used to say, "O Allah! I ask you for martyrdom in Your way and death in the city of Your Messenger!"

Book 21, Number 21.15.35:

Yahya related to me from Malik from Yahya ibn Said that Umar ibn al-Khattab said, "The nobility of the mumin is his taqwa. His deen is his noble descent. His manliness is his good character. Boldness and cowardice are but instincts which Allah places wherever He wills. The coward shrinks from defending even his father

and mother, and the bold one fights for the sake of the combat not for the spoils. Being slain is but one way of meeting death, and the martyr is the one who gives himself, expectant of reward from Allah."

Section: How to Wash the Martyr

Book 21, Number 21.16.36:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that Umar ibn al-Khattab was washed and shrouded and prayed over, yet he was a martyr, may Allah have mercy on him .

Book 21, Number 21.16.37:

Yahya related to me from Malik that he had heard the people of knowledge say that martyrs in the way of Allah were not washed, nor were any of them prayed over. They were buried in the garments in which they were slain.

Malik said, "That is the sunna for someone who is killed on the battleground and is not reached until he is already dead. Someone who is carried off and lives for as long as Allah wills after it, is washed and prayed over as was Umar ibn al-Khattab."

Section: What is Disliked to be done with Something Given in the Way of Allah

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Book 21, Number 21.17.38:

Yahya related to me from Malik from Yahya ibn Said that Umar ibn al-Khattab in one year gave 40,000 camels as mounts. Sometimes he would give one man a camel to himself. Sometimes he would give one camel between two men to take them to Iraq. A man from Iraq came to him and said, "Give Suhaym and I a mount."Umar ibn al-Khattab said to him,"l demand from you, by Allah!, is Suhaym a water skin?" He said, "Yes."

Section: Stimulation of Desire for Jihad

Book 21, Number 21.18.39:

Yahya related to me from Malik from Ishaq ibn Abdullah ibn Abi Talha that Anas ibn Malik had said that when the Messenger of Allah, may Allah bless him and grant him peace, went to Quba, he visited Umm Haram bint Milhan and she fed him. Umm Haram was the wife of Ubada ibn as-Samit. One day the Messenger of Allah, may Allah bless him and grant him peace, had called on her and she had fed him, and sat down to delouse his hair. The Messenger of Allah, may Allah bless him and grant him peace, had dozed and woke up smiling. Umm Haram said, "What is making you smile, Messenger of Allah?" He said, "Some of my community were presented to me, raiding in the way of Allah. They were riding in the middle of the sea, kings on thrones, or like kings on thrones." (Ishaq wasn't sure). She said, "O Messenger of Allah! Ask Allah to put me among them!" So he had made a dua for her, and put his head down and slept. Then he had woken up smiling, and she said to him, "Messenger of Allah, why are you smiling?" He said, "Some of my community were presented to me, raiding in the way of Allah. They were kings on thrones or like kings on thrones," as he had said in the first one. She

said, "O Messenger of Allah! Ask Allah to put me among them!" He said, "You are among the first."

Ishaq added, "She travelled on the sea in the time of Muawiya, and when she landed, she was thrown from her mount and killed."

Book 21, Number 21.18.40:

Yahya related to me from Malik from Yahya ibn Said from Abu Salih as-Samman from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Had I not been concerned for my community, I would have liked never to stay behind a raiding party going out in the way of Allah. However, I do not find the means to carry them to it, nor do they find anything on which to ride out and it is grievous for them that they should stay behind me. I would like to fight in the way of Allah and be killed, then brought to life so I could be killed and then brought to life so I could be killed."

Book 21, Number 21.18.41:

Yahya related to me from Malik that Yahya ibn Said said, "On the Day of Uhud, The Messenger of Allah, may Allah bless him and grant him peace, said, 'Who will bring me news of Sad ibn al-Rabi al-Ansari?' a man said, 'Me, Messenger of Allah!' So the man went around among the slain, and Sad ibn al-Rabi said to him, 'What are you doing?' The man said to him, 'The Messenger of Allah, may Allah bless him and grant him peace, sent me to bring him news of you.' He said, 'Go to him, and give him my greetings, and tell him that I have been stabbed twelve times, and am mortally wounded. Tell your people that they will have no excuse with Allah if the Messenger of Allah, may Allah bless him and grant him peace, is slain while one of them is still alive.' "

Book 21, Number 21.18.42:

Yahya related to me from Malik from Yahya ibn Said that the Messenger of Allah, may Allah bless him and grant him peace, stimulated people for jihad and mentioned the Garden. One of the Ansar was eating some dates in his hand, and said, "Am I so desirous of this world that I should sit until I finish them?" He threw aside what was in his hand and took his sword, and fought until he was slain .

Book 21, Number 21.18.43:

Yahya related to me from Malik from Yahya ibn Said that Muadh ibn Jabal said, "There are two military expeditions. There is one military expedition in which valuables are spent, the contributor is willing, the authorities are obeyed, and corruption is avoided. That military expedition is all good. There is a military expedition in which valuables are not spent, the contributor is not willing, the authorities are not obeyed, and corruption is not avoided. The one who fights in that military expedition does not return with reward."

Section: Horses and Racing Them and Expending in Military Expeditions

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Book 21, Number 21.19.44:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the

Messenger of Allah, may Allah bless him and grant him peace, said, "Blessing is in the forelocks of horses until the Day of Rising."

Book 21, Number 21.19.45:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, held a race between horses which had been made lean by training, from al-Hafya to Thaniyatu-lWada. He held a race between horses which had not been made lean from the Thaniya (a mountain pass near Madina) to the mosque of the Banu Zurayq. Abdullah ibn Umar was among those who raced them .

Book 21, Number 21.19.46:

Yahya related to me from Malik that Yahya ibn Said heard Said ibn al-Musayyab say, "There is no harm in placing stakes on horses if a third horse enters it. The winner takes the stake, and there is no fine against the loser."

Book 21, Number 21.19.47:

Yahya related to me from Malik from Yahya ibn Said that the Messenger of Allah, may Allah bless him and grant him peace, was seen wiping the face of his horse with his cloak. He was questioned about it and said, "I was reproached in the night about horses." i.e. not taking care of them.

Book 21, Number 21.19.48:

Yahya related to me from Malik from Humayd at-Tawil from Anas ibn Malik that when the Messenger of Allah, may Allah bless him and grant him peace, went out to Khaybar, he arrived there at night, and when he came upon a people by night, he did not attack until morning. In the morning, the jews came out with their spades and baskets. When they saw him, they said, "Muhammad! By Allah, Muhammad and his army!" The Messenger of Allah, may Allah bless him and grant him peace, said "Allah is greater! Khaybar is destroyed. When we come to a people, it is an evil morning for those who have been warned . "

Book 21, Number 21.19.49:

Yahya related to me from Malik from Ibn Shihab from Humayd ibn Abd ar-Rahman ibn Awf from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever hands over two of any type of property in the way of Allah is called to the Garden, with the words 'O slave of Allah! This is good!' Whoever is among the people of prayer, is called from the gate of prayer. Whoever is among the people of jihad is called from the gate of jihad. Whoever is among the people of sadaqa, is called from the gate of sadaqa. Whoever is among the people of fasting, is called from the gate of the well-watered. (Bab ar-Rayyan)."

Abu Bakr as-Siddiq said, "Messenger of Allah! Is it absolutely necessary that one be called from one of these gates? Can someone be called from all of these gates?" He said, "Yes, and I hope you are among them ."

21.20 Acquisition of the Land of Those who Surrender from the People of Dhimma

Book 21, Number 21.19.49a:

Malik was asked whether, when an imam had accepted jizya from a people and they gave it, he thought that the land of one of them who surrendered belonged to him or whether his land and property belonged to the Muslims. Malik said, "That varies. As for the people of peace, if one of them surrenders, then he is entitled to his land and property. As for the people of force who use force, if one of them surrenders, his land and property belong to the Muslims because the people of force are overcome in their towns, and it becomes booty for the Muslims. As for the people of peace, their property and selves are protected so that they make peace for them. Only what they have made peace for is obliged of them."

Section: Burial in One Grave by Necessity and Abu Bakr's, may Allah be Pleased with Him, Carrying Out the Promise of the Messenger of Allah, may Allah Bless Him and Grant Him Peace, After the Death of the Messenger, may Allah Bless Him and Grant Him Peace

Book 21, Number 21.20.50:

Yahya related to me from Malik from Abd ar-Rahman ibn Abi Sasaca that he had heard that Amr ibn al-Jamuh al-Ansari and Abdullah ibn Umar al-Ansari, both of the tribe of Banu Salami, had their grave uncovered by a flood. Their grave was part of what was left after the flood. They were in the same grave, and they were among those martyred at Uhud. They were dug up so that they might be moved. They were found unchanged. It was as if they had died only the day before. One of them had been wounded, and he had put his hand over his wound and had been buried like that. His hand was pulled away from his wound and released, and it returned to where it had been. It was forty-six years between Uhud and the day they were dug up.

Malik said, "There is no harm in burying two or three men in the same grave due to necessity. The oldest one is put next to the qibla."

Book 21, Number 21.20.51:

Yahya related to me from Malik that Rabia ibn Abi Abd ar-Rahman said, "Property was sent to Abu Bakr as-Siddiq from Bahrayn. He said, 'If someone had a promise or a pledge with the Messenger of Allah, may Allah bless him and grant him peace, let him come to me.' So Jabir ibn Abdullah came to him, and he gave him three times as much of it as would fill both hands."

[Translation of Malik's Muwatta, Book 22:](#)

Vows and Oaths

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Section: Fulfilling Vows to Walk

Book 22, Number 22.1.1:

Yahya related to me from Malik from Ibn Shihab from Ubaydullah ibn Abdullah ibn Utba ibn Masud from Abdullah ibn Abbas that Sad ibn Ubada questioned the Messenger of Allah, may Allah bless him and grant him peace, and said,"My mother died while she still had a vow which she had not fulfilled." The Messenger of Allah, may Allah bless him and grant him peace, said, "Fulfill it for her."

Book 22, Number 22.1.2:

Yahya related to me from Malik from

Abdullah ibn Abi Bakr that his paternal aunt related that her grandmother made a vow to walk to the Quba mosque. She died, and did not fulfill it, so Abdullah ibn Abbas asked her daughter to walk for her.

Yahya said that he had heard Malik say, "No one walks for anyone else."

Book 22, Number 22.1.3:

Yahya related to me from Malik that Abdullah ibn Abi Habiba said, "I said to a man, when I was young, 'A man who only says that he must walk to the House of Allah and does not say that he has vowed to walk, does not have to walk.' A man said, 'Shall I give you this small cucumber?' and he had a small cucumber in his hand and you will say, 'I must walk to the house of Allah?' I said, 'Yes' and I said it, for at that time I was still immature. Then, when I came of age, some one said to me that I had to fulfill my vow. I went and asked Said ibn al-Musayyab about it, and he said to me, 'You must walk.' So I walked."

Malik said, "That is the custom among us."

Section: Making Vows to Walk to the House and Not Succeeding

Book 22, Number 22.2.4:

Yahya related to me from Malik that Urwa ibn Udhayna al-Laythi said, "I went out with my grandmother who had vowed to walk to the House of Allah. When we had gone part of the way, she could not go on. I sent one of her mawlas to question Abdullah ibn Umar and I went with him. He asked Abdullah ibn Umar, and Abdullah ibn Umar said to him, 'Take her and let her ride, and when she has the strength let her ride back, and start to walk from the place from which she was unable to go on.'~

Yahya said that he had heard Malik say, "I think that she must sacrifice an animal."

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab and Abu Salama ibn Abd ar-Rahman said the same as Abdullah ibn Umar.

Book 22, Number 22.2.5:

Yahya related to me from Malik that Yahya ibn Said said, "I vowed to walk, but I was struck by a pain in the kidney, so I rode until I came to Makka. I questioned Ata ibn Abi Rabah and others, and they said, 'You must sacrifice an animal.' When I came to Madina I questioned the ulama there, and they ordered me to walk again from the place from which I was unable to go on. So I walked."

Yahya said that he had heard Malik say, "What is done among us regarding someone who makes a vow to walk to the House of Allah, and then cannot do it and so rides, is that he must return and walk from the place from which he was unable to go on. If he cannot walk, he should walk what he can and then ride, and he must sacrifice a camel, a cow, or a sheep if that is all that he can find."

Malik, when asked about a man who said to another, "I will carry you to the House of Allah", answered, "If he intended to carry him on his shoulder, by that he meant hardship and exhaustion to himself, and he does not have to do that. Let him walk by foot and make sacrifice. If he did not intend anything, let him do hajj and ride, and take the man on hajj with him. That is because he said, 'I will carry you to the house of Allah.' If the man refuses to do hajj with him, then there is nothing against him, and what is demanded of him is cancelled."

Yahya said that Malik was asked whether it was enough for a man who had made a vow that he would walk to the House of Allah a certain (large) number of times, or who had forbidden himself from talking to his father and brother, if he did not fulfil a certain vow, and he had taken upon himself, by the oath, something which he was incapable of fulfilling in his lifetime, even though he were to try every year, to fulfil only one or a (smaller) number of vows by Allah? Malik said, "The only satisfaction for that that I know is fulfilling what he has obliged himself to do. Let him walk for as long as he is able and draw near Allah the Exalted by what he can of good."

Section: How to Fulfill the Oath of Walking to the Kaba

Book 22, Number 22.3.5a:

Yahya related to me from Malik that what he preferred of what he had heard from the people of knowledge about a man or woman who vowed to walk to the House of Allah, was that they fulfilled the oath when performing umra, by walking until they had done say between Safa and Marwa. When they had done say it was finished. If they vowed to walk in the hajj, they walked until they came to Makka, then they walked until they had finished all the rites.

Malik said, "Walking is only for hajj or umra."

Section: Vows Not Permitted in Disobedience to Allah

Book 22, Number 22.4.6:

Yahya related to me from Malik that Humayd ibn Qays and Thawr ibn Zayd adDili both informed him that the Messenger of Allah, may Allah bless him and grant him

peace, (and one of them gave more detail than the other),saw a man standing in the sun. The Messenger asked, "What's wrong with him?" The people said, "He has vowed not to speak or to seek shade from the sun or to sit and to fast." The Messenger of Allah, may Allah bless him and grant him peace, said, "Go and tell him to speak, seek shade, and sit, but let him complete his fast."

Malik said, "I have not heard that the Messenger of Allah, may Allah bless him and grant him peace, ordered the man in question to do any kaffara. The Messenger of Allah, may Allah bless him and grant him peace, only ordered him to complete that in which there was obedience to Allah and to abandon that in which there was disobedience to Allah."

Book 22, Number 22.4.7:

Yahya related to me from Malik that Yahya ibn Said heard al-Qasim ibn Muhammad say, "A woman came to Abdullah ibn Abbas and said, 'I have vowed to sacrifice my son.' Ibn Abbas said, 'Do not sacrifice your son. Do kaffara for your oath.' An old man with Ibn Abbas said, 'What kaffara is there for this?' Ibn Abbas said, 'Allah the Exalted said, "Those of you who say, regarding their wives.'Be as my mother's back' (Sura58 ayat 2) and then He went on to oblige the kaffara for it as you have seen.' "

Book 22, Number 22.4.8:

Yahya related to me from Malik from Talha ibn Abi al-Malik al-Ayli from al-Qasim ibn Muhammad ibn as-Siddiq from A'isha that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever vows to obey Allah, let him obey Him. Whoever vows to disobey Allah, let him not disobey Him."

Yahya said that he had heard Malik say, "The meaning of the statement of the Prophet, may Allah bless him and grant him peace, 'Whoever vows to disobey Allah, let him not disobey Him' is that for instance a man who vows that, if he speaks to such-and-such a person, he will walk to Syria, Egypt, or any other such things which are not considered as ibada, is not under any obligation by any of that, even if he did speak to the man or did break whatever it was he swore, because Allah does not demand obedience in such things. He should only fulfill those things in which there is obedience to Allah."

22.5 Rashness in Oaths

Book 22, Number 22.4.9:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, umm al-muminin said, "Rashness in oaths is that a man says, 'By Allah, No! by Allah!' " i.e. out of habit.

Malik said, "The best of what I have heard on the matter is that rashness in oaths is that a man take an oath on something to show that he is certain that it is like he said, only to find that it is other than what he said. This is rashness."

Malik said, "The binding oath is for example, that a man says that he will not sell his garment for ten dinars, and then he sells it for that, or that he will beat his young slave and then does not beat him, and so on. One does kaffara for making such an oath, and there is no kaffara in rashness."

Malik said, "As for the one who swears to a thing which he knows is wicked, and he swears to a lie he knows to be a lie, in order to please someone with it or to excuse himself to someone by it or to gain money by it, no kaffara that he does for it can cover it."

Section: Oaths for which Kaffara Not Obligatory

Book 22, Number 22.5.10:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "Whoever swears by Allah and then says, 'Allah willing' and then does not do what he has sworn to, has not broken his oath."

Malik said, "The best I have heard on this reservation is that it belongs to the statement made if the speaker does not break the normal flow of speech before he is silent. If he is silent and breaks the flow of speech, he has no exception."

Yahya said, "Malik said that a man who said that he had disbelieved or associated something with Allah and then he broke his oath, had no kaffara, and he was not a disbeliever or one who associated something with Allah unless his heart concealed something of either of those. He should ask forgiveness of Allah and not return to it - for what he did was evil."

Section: Oaths for Which Kaffara is Obligatory

Book 22, Number 22.6.11:

Yahya related to me from Malik from Suhayl ibn Abi Salih from his father from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever makes an oath and then sees that something else would be better than it, should do kaffara for his oath and do what is better."

Yahya said that he heard Malik say, "Anyone who says that he has a vow but does not mention the name of Allah, is still obliged to make the kaffara for an oath (if he breaks it)".

Malik said, "Emphasis is when a man swears one thing several times, repeating the oath in his speech time after time. For instance, the statement, 'By Allah, I will not decrease it from such-and-such,' sworn three times or more. The kaffara of that is like the kaffara of one oath. If a man swears, 'I will not eat this food or wear these clothes or enter this house,' that is all in one oath, and he is only obliged to do one kaffara. It is the same for a man who says to his wife, 'You are divorced if I clothe you in this garment or let you go to the mosque,' and it is one entire statement in the normal pattern of speech. If he breaks any of that oath, divorce is necessary, and there is no breaking of oath after that in whatever he does. There is only one oath to be broken in that."

Malik said, "What we do about a woman who makes a vow without her husband's permission is that she is allowed to do so and she must fulfill it, if it only concerns her own person and will not harm her husband. If, however, it will harm her husband, he may forbid her to fulfill it, but it remains an obligation against her until she has the opportunity to complete it."

Section: Behaviour in the Kaffara of the Broken Oath

Book 22, Number 22.7.12:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "If someone breaks an oath which he has stressed, he has to free a slave, or clothe ten poor people. If someone breaks an oath, but has not stressed it, he only has to feed ten poor people and each poor person is fed a mudd of wheat. Some one who does not have the means for that, should fast for three days."

Book 22, Number 22.7.13:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar used to do kaffara for a broken oath by feeding ten poor people. Each person got a mudd of wheat. He sometimes freed a slave if he had repeated the oath.

Yahya related to me from Malik from Yahya ibn Said that Sulayman ibn Yasar said, "I understood from people that when they made the kaffara for a broken oath, they gave a mudd of wheat according to the smaller mudd. They thought that that would compensate for them."

Malik said, "The best of what I have heard about the one who does kaffara for breaking his oath by clothing people is that if he clothes men he clothes them each in one garment. If he clothes women, he clothes them each in two garments, a long shift and a long scarf, because that is what is satisfactory for each of them in the prayer."

Section: Oaths in General

Book 22, Number 22.8.14:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that one time the Messenger of Allah, may Allah bless him and grant him peace, was speaking to Umar ibn al-Khattab while he was travelling with a troop and Umar swore by his father and he (the Messenger) said, "Allah forbids you to swear by your fathers. If anyone swears, let him swear by Allah or keep silent."

Book 22, Number 22.8.15:

Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, used tosay, "No, by the Overturner of hearts."

Book 22, Number 22.8.16:

Yahya related to me from Malik from Uthman ibn Hafs ibn Umar ibn Khalda that Ibn Shihab had heard that Abu Lubaba ibn Abd al-Mundhir, when Allah turned to him said, "Messenger of Allah, should I leave my people's house in which I committed wrong action and keep your company, and give away all my property as sadaqa for Allah and His Messenger? "The Messenger of Allah, may Allah bless him and grant him peace, said, "Giving away a third of it is enough for you."

Book 22, Number 22.8.17:

Yahya related to me from Malik from Ayyub ibn Musa from Mansur ibn Abd ar-Rahman al-Hajabi from his mother that A'isha, umm al-muminin, may Allah be pleased with her, was asked about a man who devoted his property to the door of

Kaba. She said, "Let him do kaffara for it with the kaffara of the oath."

Malik said, that someone who devoted all his property in the way of Allah, and then broke his oath, should put a third of his property in the way of Allah, as that was what the Messenger of Allah, may Allah bless him and grant him peace, did in the case of Abu Lubaba.

[Translation of Malik's Muwatta, Book 23:](#)

Sacrificial Animals

Section: Animals to Be Avoided as Sacrifices

Book 23, Number 23.1.1:

Yahya related to me from Malik from Amr ibn al-Harith from Ubayd ibn Fayruz from al-Bara ibn Azib that the Messenger of Allah, may Allah bless him and grant him peace, was asked what animals should be avoided as sacrifices. He indicated with his hand and said, "Four." Al-Bara pointed with his hand and said, "My hand is shorter than the hand of the Messenger of Allah, may Allah bless him and grant him peace. A lame animal whose lameness is evident, a one-eyed animal which is clearly one-eyed, an animal which is clearly ill, and an emaciated animal with no fat on it."

Book 23, Number 23.1.2:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar would guard against animals and camels which were young or had physical defects as sacrifices.

Malik said, "That is what I like best of what I have heard ."

Section: Animals Desirable as Sacrifices

Book 23, Number 23.2.3:

Yahya related to me from Malik from Nafi that one time Abdullah ibn Umar wanted to sacrifice an animal at Madina. Nafi said, "He told me to buy him an excellent horned ram, then to sacrifice it on the Day of Sacrifice in the place where the people prayed." Nafi continued, "I did so and when the ram was sacrificed, it was carried to Abdullah ibn Umar who shaved his head. He was ill, and did not attend the Id with the people." Nafi added, "Abdullah ibn Umar used to say, 'Shaving the head is not obligatory for someone who sacrifices an animal.' Ibn Umar would do so however."

Section: Prohibition against Sacrificing an Animal Before the Imam Departs

Book 23, Number 23.3.4:

ahya related to me from Malik from Yahya ibn Said from Bushayr ibn Yasar that Abu Burda ibn Niyar sacrificed an animal before the Messenger of Allah, may Allah bless him and grant him peace, sacrificed on the Day of Sacrifice. He asserted that the Messenger of Allah, may Allah bless him and grant him peace, ordered him to sacrifice another animal, and he, Abu Burda, said, "What if I can only find an animal less than one year old, Messenger of Allah?" He had said, "If you can only find a young animal, then sacrifice it."

Book 23, Number 23.3.5:

Yahya related to me from Malik from Yahya ibn Said from Abbad ibn Tamin that one time Uwaymir ibn Ashqar sacrificed his animal before the prayer on the morning of the Day of Sacrifice, and he mentioned that the Messenger of Allah, may Allah bless him and grant him peace, had ordered him to sacrifice another animal.

Section: Storing Meat from Sacrificial Animals

Book 23, Number 23.4.6:

Yahya related to me from Malik from Abu'z-Zubayr al-Makki from Jabir ibn Abdullah that the Messenger of Allah, may Allah bless him and grant him peace, forbade that the meat from sacrificial animals be eaten after three days. Then later he said, "Eat, give sadaqa, provide for yourselves and store up."

Book 23, Number 23.4.7:

Yahya related to me from Malik from Abdullah ibn Abi Bakr that Abdullah ibn Waqid said, "The Messengerof Allah, may Allah bless him and grant him peace, forbade eating the meat from sacrificial animals after three days."

Abdullah ibn Abi Bakr said, "I mentioned that to Amra bint Abd ar-Rahman, and she affirmed that he had spoken the truth as she had heard A'isha, the wife of the Prophet, may Allah bless him and grant him peace, say, 'Some people from the desert came at the time of the sacrifice in the time of the Messenger of Allah, may Allah bless him and grant him peace, so the Messenger of Allah, may Allah bless him and grant him peace, said, 'Store up for three days, and give what is left over as sadaqa.' "

She said that afterwards some one said to the Messenger of Allah, may Allah bless him and grant him peace, that people had been accustomed to make use of their sacrificial animals, melting the fat and curing the skins. The Messenger of Allah, may Allah bless him and grant him peace, said, "What about that?" They said, "You have forbidden the meat of sacrificial animals after three days." The Messenger of Allah, may Allah bless him and grant him peace, said, "I only forbade you for the sake of the people who were coming to you. Eat, give sadaqa and store up."

By these people, he meant the poor people who were coming to Madina.

Book 23, Number 23.4.8:

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman that Abu Said alKhudri returned from a journey and his family gave him some meat. He asked whether it was meat from the sacrifice. They replied that it was. Abu Said said, "Didn't the Messenger of Allah, may Allah bless him and grant him peace, forbid that?" They said, "There has been a new command from the Messenger of Allah, may Allah bless him and grant him peace, since you went away." Abu Said went out and made enquiries about it and was told that the Messenger of Allah, may Allah bless him and grant him peace, had said,"I forbade you before to eat meat of the sacrifice after three days, but now eat, give sadaqa and store up. I forbade you before to make nabidh (by soaking raisins or dates in water), but now make nabidh, but remember every intoxicant is haram .I forbade you to visit graves, but now visit them, and do not use bad language."

Section: Sharing Sacrificial Animals and How Many Share a Cow or Camel

Book 23, Number 23.5.9:

Yahya related to me from Malik from Abu'z-Zubayr al-Makki that Jabir ibn Abdullah said, "We sacrificed with the Messenger of Allah, may Allah bless him and grant him peace, in the year of Hudaybiya, a camel between seven people, and a cow between seven people."

Book 23, Number 23.5.10:

Yahya related to me from Malik from Umara ibn Yasar that Ata ibn Yasar told him that Abu Ayyub al-Ansari had told him, "We used to sacrifice one sheep, and a man sacrificed for himself and his family. Then later on people began to compete with each other and it became boasting."

Malik said, "The best that I have heard about a single camel, cow or sheep, is that a man should sacrifice a camel for himself and his family. He sacrifices a cow or sheep which he owns for his family, and shares with them in it. It is disapproved for a group of people to buy a camel, cow or sheep, to share for the ritual and sacrifices, each man giving a share of its price, and taking a share of its meat. We have heard the tradition that people do not share in the ritual. However, it may be that the people of one household can share."

Book 23, Number 23.5.11:

Yahya related to me from Malik that Ibn Shihab said, "The Messenger of Allah, may Allah bless him and grant him peace, only sacrificed one camel or one cow for himself and his family."

Malik said, "I do not know which of them Ibn Shihab said."

Section: The Sacrificial Animal for the Child in the Womb and Mention of the Days of Sacrifice

Book 23, Number 23.6.12:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "The sacrifice can be done up to two days after the Day of Sacrifice."

Yahya related to me from Malik that he had heard the same from Ali ibn Abi Talib.

Book 23, Number 23.6.13:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar did not sacrifice for the child in the womb.

Malik said, "The sacrifice is sunna, and it is not obligatory. I prefer that anyone who has the price of the animal should not abandon it."

Translation of Malik's Muwatta, Book 24:

Slaughtering Animals

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Section: Saying the Name of Allah over the Slaughtered Animal

Book 24, Number 24.1.1:

Yahya related to me from Malik from Hisham ibn Urwa that his father said, "The Messenger of Allah, may Allah bless him and grant him peace, was asked, 'Messenger of Allah! Some people from the desert bring us meat, and we do not know whether the name of Allah has been mentioned over it or not.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'Mention the name of Allah over it and eat.' "

Malik said, "That was in the beginning of Islam."

Book 24, Number 24.1.2:

Yahya related to me from Malik from Yahya ibn Said that Abdullah ibn Ayyash ibn Abi Rabia al-Makhzumi ordered one of his slaves to slaughter an animal. When he wanted to slaughter it, he said to him, "Mention Allah's name." The slave said to him, "I have mentioned the name!" He said to him, "Mention the name of Allah, bother you!" He said to him, "I have mentioned the name of Allah " Abdullah ibn Ayyash said, "By Allah, I shall never eat it!"

Section: Methods of Slaughter Permitted in Necessity

Book 24, Number 24.2.3:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that a man from the Ansar of the tribe of Banu Haritha was herding a pregnant she-camel at Uhud. It was about to die, so he slaughtered it with a sharp stake. The Messenger of Allah was asked about that, and he said, "There is no harm in it, eat it."

Book 24, Number 24.2.4:

Yahya related to me from Malik from Nafi from a man of the Ansar from Muadh ibn Sad or Sad ibn Muadh that a slave-girl of Kab ibn Malik was herding some sheep at Sal (a mountain near Madina). One of the sheep was about to die, so she went over to it and slaughtered it with a stone. The Messenger of Allah, may Allah bless him and grant him peace, was asked about that, and he said, "There is no harm in it, so eat it."

Book 24, Number 24.2.5:

Yahya related to me from Malik from Thawr ibn Zayd ad-Dili that Abdullah ibn Abbas was asked about animals slaughtered by the

Christian Arabs. He said, "There is no harm in them," but he recited this ayat, "Whoever takes them as friends is from them." (Sura 5 ayat 54).

Book 24, Number 24.2.6:

> Yahya related to me from Malik that Abdullah ibn Abbas used to say, "You can eat anything that has had its jugular vein cut."
>
> Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab said, "There is no harm in whatever you slaughter with a cutting edge, as long as you are forced to do it by necessity."

Section: What is Disapproved of in Slaughtering Animals

Book 24, Number 24.3.7:

> Yahya related to me from Malik from Yahya ibn Said that Abu Murra, the mawla of Aqil ibn Abi Talib asked Abu Hurayra about a sheep which was slaughtered and then part of it moved. He ordered him to eat it. Then he asked Zayd ibn Thabit about it, and he said, "Does a corpse move?" and he forbade eating its meat.
>
> Malik was asked about a sheep which fell down and injured itself badly and then its master reached it and slaughtered it. Blood flowed from it but it did not move. Malik said, "If he kills it and blood flows from it and its eyes blink, he should eat it."

Section: Slaughtering What is in the Womb of a Slaughtered Animal

Book 24, Number 24.4.8:

> Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "When a she-camel is slaughtered, what is in its womb is included in the slaughter if it is perfectly formed and its hair has begun to grow. If it comes out of its mother's womb, it is slaughtered so that blood flows from its heart."

Book 24, Number 24.4.9:

> Yahya related to me from Malik from Yazid ibn Abdullah ibn Qusayt al-Laythi that Said ibn al- Musayyab said, "The slaughter of what is in the womb is included in the slaughter of the mother if it is perfectly formed and its hair has begun to grow."

Translation of Malik's Muwatta, Book 25:

Game

Section: Eating Game Killed with Throwing Sticks and by Stones

Book 25, Number 25.1.1:

ahya related to me from Malik that Nafi said, "I was at al-Juruf (near Madina) and threw a stone at two birds, and hit them. One of them died, and Abdullah ibn Umar threw it away, and then went to slaughter the other one with an adze. It died before he could slaughter it, so Abdullah threw that one away as well."

Book 25, Number 25.1.2:

Yahya related to me from Malik that he had heard that al-Qasim ibn Muhammad disapproved of eating game that had been killed with throwing sticks and by clay pellets.

Book 25, Number 25.1.3:

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab disapproved of killing domestic animals that had become wild by any means that game was slain such as arrows and the like.

Malik said, "I do not see any harm in eating game which is pierced by a throwing stick in a vital organ.

Allah, the Blessed, the Exalted! said, 'Oh you who believe! Allah will surely try you with something of the game that your hands and spears attain.' " (Sura 5 ayat 97).

Yahya said, "Any game that man obtains by his hand or by his spear or by any weapon which pierces it and reaches a vital organ, is acceptable as Allah, the Exalted, has said."

Book 25, Number 25.1.4:

Yahya related to me from Malik that he had heard the people of knowledge say that when a man hit game and something else might have contributed to death, like water or an untrained dog, that game was not to be eaten unless it was beyond doubt that it was the arrow of the hunter that had killed it by reaching a vital organ, so that it did not have any life after that.

Book 25, Number 25.1.5:

Yahya said that he heard Malik say that there was no harm in eating game when you did not see it die if you found the mark of your dog on it or your arrow in it as long as it had not remained overnight. If it had remained overnight, then it was disapproved of to eat it.

Section: Game Caught by Trained Dogs

Book 25, Number 25.2.5a:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said about a trained dog, "Eat whatever it catches for you whether it eats from it or not."

Book 25, Number 25.2.6:

Yahya related to me from Malik that he heard Nafi say that Abdullah ibn Umar said, "Whether it eats from it or not."

Book 25, Number 25.2.7:

Yahya related to me from Malik that he had heard that Sad ibn Abi Waqqas had said, when asked about a trained dog killing game, "Eat, even if only one piece of it remains."

Book 25, Number 25.2.8:

Yahya related to me from Malik that he had heard some of the people of knowledge say that when falcons, eagles, and hawks and their like, understood as trained dogs understood, there was no harm in eating what they had killed in the course of hunting, if the name of Allah had been mentioned when they were sent out.

Malik said, "The best of what I have heard about retrieving game from the falcon's talons or from the dog's fangs and then waiting until it dies, is that it is not halal to eat it."

Malik said, "The same applies to anything which could have been slaughtered by the hunter when it was in the talons of the falcon or the fangs of the dog. If the hunter leaves it until the falcon or dog has killed it, it is not halal to eat it either". He continued, "The same thing applies to any game hit by a hunter and caught while still alive, which he neglects to slaughter before it dies."

Malik said, "It is generally agreed among us that it is halal to eat the game that a hunting-dog belonging to magians hunts or kills, if it is sent out by a muslim and the animal is trained. There is no harm in it even if the muslim does not actually slaughter it.

It is the same as a muslim using a magian's knife to slaughter with or using his bow and arrows to shoot and kill with. The game he shot and the animal he slaughters are halal. There is no harm in eating them. If a magian sends out a muslim's hunting dog for game, and it catches it, the game is not to be eaten unless it is slaughtered by a muslim. That is like a magian using a muslim's bow and arrow to hunt game with, or like his using a muslim's knife to slaughter with. It is not halal to eat anything killed like that.

Section: Game of the Sea

Book 25, Number 25.3.9:

Yahya related to me from Malik from Nafi that Abd ar-Rahman ibn Abi Hurayra asked Abdullah ibn Umar about eating what was cast up by the sea and he forbade him to eat it. Then Abdullah turned and asked for a Qur'an, and read, "The game of the sea and its flesh are halal for you." Nafi added, "Abdullah ibn Umar sent me to

Abdar-Rahman Ibn Abi Hurayra to say that there was no harm in eating it."

Book 25, Number 25.3.10:

Yahya related to me from Malik from Zayd ibn Aslam that Sad al-Jari, the mawla of Umar ibn al-Khattab asked Abdullah ibn Umar about fish which had killed each other or which had died from severe cold . He said, "There is no harm in eating them." Sad said,' 'I then asked Abdullah ibn Amr ibn al As and he said the same."

Book 25, Number 25.3.11:

Yahya related to me from Malik from Abu'z-Zinad from Abu Salama ibn Abd ar-Rahman from Abu Hurayra and Zayd ibn Thabit that they saw no harm in eating what was cast up by the sea.

Book 25, Number 25.3.12:

Yahya related to me from Malik from Abu'z-Zinad from Abu Salama ibn Abd ar-Rahman that some people from al-Jar came to Marwan ibn al-Hakam and asked him about eating what was cast up by the sea. He said, "There is no harm in eating it." Marwan said, "Go to Zayd ibn Thabit and Abu Hurayra and ask them about it, then come to me and tell me what they say." They went to them and asked them, and they both said, "There is no harm in eating it " They returned to Marwan and told him. Marwan said, "I told you."

Malik said that there was no harm in eating fish caught by magians, because the Messenger of Allah, may Allah bless him and grant him peace, said, "In the sea's water is purity, and that which is dead in it is halal. "

Malik said, "If it is eaten when it is dead, there is no harm in who catches it."

Section: Prohibition Against Eating Animals with Fangs

Book 25, Number 25.4.13:

Yahya related to me from Malik from Ibn Shibab from Abu Idris al-Khawlani from Abu Tha~laba al-Khushani that the Messenger of Allah, may Allah bless him and grant him peace, said, "It is haram to eat animals with fangs "

Book 25, Number 25.4.14:

Yahya related to me from Malik from Ismail ibn Abi Hakim from Abiyda ibn Sufyan al-Hadrami from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Eating animals with fangs is haram. "

Malik said, "This is the custom among us."

Section: What is Disapproved of Regarding Eating Riding Animals

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Book 25, Number 25.5.15:

Yahya related to me from Malik that the best of what he had heard about horses, mules, and donkeys was that they were not eaten because Allah, the Blessed, the Exalted,said, "And horses, and mules and asses, for you to ride, and as an adornment. " (Sura 16 ayat 8) . He said, may He be Blessed and Exalted, "In cattle,

some of them you ride, and some of them you eat." (Sura 6 ayat 79). He said, the Blessed, the Exalted, "Mention Allah's name over what He has provided you of cattle, and eat of them and feed the beggar (al-qani) and the suppliant (al-mutarr). (Sura 22 ayat 34).

Malik said "Allah mentioned horses, mules, and donkeys for riding and adornment, and He mentioned cattle for riding and eating."

Malik said, "Al-qani also means the poor."

Section: Using the Skin of Animals Found Dead

Book 25, Number 25.6.16:

Yahya related to me from Malik from Ibn Shihab from Ubaydullah ibn Abdullah ibn Utba ibn Masud that Abdullah ibn Abbas said, "The Messenger of Allah, may Allah bless him and grant him peace, passed by a dead sheep which had been given to a mawla of his wife, Maimuna. He said, ' Aren't you going to use its skin?' They said, 'Messenger of Allah, but it is carrion. 'The Messenger of Allah, may Allah bless him and grant him peace, said, 'Only eating it is haram.' "

Book 25, Number 25.6.17:

Malik related to me from Zayd ibn Aslam from Ibn Wala al-Misri from Abdullah ibn Abbas that the Messenger of Allah, may Allah bless him and grant him peace, said, "A skin when it is tanned is pure."

Book 25, Number 25.6.18:

Yahya related to me from Malik from Yazid ibn Abdullah ibn Qusayt from Muhammad ibn Abd ar-Rahman ibn Thawban from his mother that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said that the Messenger of Allah, may Allah bless him and grant him peace, ordered that the skins of carrion be used after they had been tanned.

Section: Eating Carrion when Forced to, out of Necessity

Book 25, Number 25.7.19:

Yahya related to me from Malik that the best of what he had heard about a man who is forced by necessity to eat carrion is that he ate it until he was full and then he took provision from it. If he found something which would enable him to dispense with it, he threw it away.

Malik when asked whether or not a man who had been forced by necessity to eat carrion, should eat it when he also found the fruit, crops or sheep of a people in that place, answered, "If he thinks that the owners of the fruit, crops, or sheep will believe his necessity so that he will not be deemed a thief and have his hand cut off, then I think that he should eat from whatever he finds that which will remove his hunger but he should not carry any of it away. I prefer that he does that than that he eat carrion. If he fears that he will not be believed, and will be deemed a thief for what he has taken, then I think that it is better for him to eat the carrion, and he has leeway to eat carrion in this respect. Even so, I fear that someone who is not forced by necessity to eat carrion might exceed the limits out of a desire to consume other

peoples' property, crops or fruit."

Malik said, "That is the best of what I have heard."

Translation of Malik's Muwatta, Book 26:

The 'Aqiqa

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Section: About The Aqiqa

Book 26, Number 26.1.1:

Yahya related to me from Zayd ibn Aslam from a man of the Banu Damra that his father said, "The Messenger of Allah, may Allah bless him and grant him peace, was asked about the Aqiqa. He said, 'I do not like disobedience (uquq),' as if he disliked the name. He said, 'If anyone has a child born to him, and wants to sacrifice for his child, then let him do it.' "

Book 26, Number 26.1.2:

Yahya related to me from Malik from Jafar ibn Muhammad that his father said, "Fatima, the daughter of the Messenger of Allah, may Allah bless him and grant him peace, weighed the hair of Hasan, Husayn, Zaynab and Umm Kulthum, and gave away in sadaqa an equivalent weight of silver."

Book 26, Number 26.1.3:

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman that Muhammad ibn Ali ibn al-Husayn said, "Fatima, the daughter of the Messenger of Allah, may Allah bless him and grant him peace, weighed the hair of Hasan and Husayn, and gave away in sadaqa the equivalent weight in silver."

Section: Behaviour in the Aqiqa

Book 26, Number 26.2.4:

Yahya related to me from Malik from Nafi that if any of Abdullah ibn Umar's family asked him for an aqiqa, he would give it to them. He gave a sheep as aqiqa for both his male and female children.

Book 26, Number 26.2.5:

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman that Muhammad ibn Ibrahim ibn al-Harith at-Taymi said, "I heard my father say that the aqiqa was desirable, even if it was only a sparrow."

Book 26, Number 26.2.64:

Yahya related to me from Malik that he heard that there had been an aqiqa for Hasan and Husayn, the sons of Ali ibn Abi Talib.

Book 26, Number 26.2.7:

Yahya related to me from Malik from Hisham ibn Urwa that his father, Urwa ibn

az-Zubayr made an aqiqa for his male and female children of a sheep each.

Malik said, "What we do about the aqiqa is that if someone makes an aqiqa for his children, he gives a sheep for both male and female. The aqiqa is not obligatory but it is desirable to do it, and people continue to come to us about it. If someone makes an aqiqa for his children, the same rules apply as with all sacrificial animals - one-eyed, emaciated, injured, or sick animals must not be used, and neither the meat or the skin is to be sold. The bones are broken and the family eat the meat and give some of it away as sadaqa. The child is not smeared with any of the blood ."

Translation of Malik's Muwatta, Book 27:

Fara'id

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Section: Inheritance of Descendants

Book 27, Number 27.1.0a:

Yahya related to me from Malik, "The generally agreed upon way of doing things among us and what I have seen the people of knowledge doing in our city about the fixed shares of inheritance of children from the mother or father when one or other of them dies is that if they leave male and female children, the male takes the portion of two females. If there are only females, and there are more than two, they get two thirds of what is left between them. If there is only one, she gets a half. If someone shares with the children, who has a fixed share and there are males among them, the reckoner begins with the ones with fixed shares. What remains after that is divided among the children according to their inheritance.

"When there are no children, grandchildren through sons have the same position as children, so that grandsons are like sons and grand-daughters are like daughters. They inherit as they inherit and they overshadow as they overshadow. If there are both children and grandchildren through sons, and there is a male among the children, then the grandchildren through sons do not share in the inheritance with him.

"If there is no surviving male among the children, and there are two or more daughters, the granddaughters through a son do not share in the inheritance with them unless there is a male who is in the same position as them in relation to the deceased, or further than them. His presence gives access to whatever is left over, if any, to whoever is in his position and whoever is above him of the granddaughters through sons. If something is left over, they divide it among them, and the male takes the portion of two females. If nothing is left over, they have nothing.

"If the only descendant is a daughter, she takes half, and if there are one or more grand-daughters through a son who are in the same position to the deceased, they share a sixth. If there is a male in the same position as the granddaughters through a son in relation to the deceased, they have no share and no sixth .

"If there is a surplus after the allotting of shares to the people with fixed shares, the surplus goes to the male and whoever is in his position and whoever is above him of the female descendants through sons. The male has the share of two females. The one who is more distant in relationship than grandchildren through sons has nothing. If there is no surplus, they have nothing. That is because Allah, the Blessed, the Exalted, said in His Book, 'Allah charges you about your children that the male has the like of the portion of two females. If there are more than two women they have two thirds of what is left. If there is one, she has a half.' (Sura 4 ayat 10)

Section: Inheritance of Husbands from Wives and Wives from Husbands

Book 27, Number 27.2.0b:

Malik said, "The inheritance of a husband from a wife when she leaves no children or grandchildren through sons is a half. If she leaves children or grandchildren through sons, male or female, by her present or previous husbands, the husband has a quarter after bequests or debts. The inheritance of a wife from a husband who does not leave children or grandchildren through sons is a quarter. If he leaves children or grandchildren through sons, male or female, the wife has an eighth after bequests and debts. That is because Allah, the Blessed, the Exalted! said in His Book, 'You have a half of what your wives leave if they have no children. If they have children, you have a fourth of what they leave after bequests and debts. They have a fourth of what you leave if you have no children. If you have children, they have an eighth after bequests or debts.' " (Sura4ayat 11).

Section: Inheritance of Fathers and Mothers from Children

Book 27, Number 27.3.0c:

Malik said, "The generally agreed on way of doing things among us about which there is no dispute and what I have seen the people of knowledge in our city doing is that when a father inherits from a son or a daughter and the deceased leaves children, or grandchildren through a son, the father has a fixed share of one sixth. If the deceased does leave any children or male grandchildren through a son, the apportioning begins with those with whom the father shares in the fixed shares. They are given their fixed shares. If a sixth or more is left over, the sixth and what is above it is given to the father, and if there is less than a sixth left, the father is given his sixth as a fixed share, (i.e. the other shares are adjusted.)

"The inheritance of a mother from her child, if her son or daughter dies and leaves children or male or female grandchildren through a son, or leaves two or more full or half siblings is a sixth. If the deceased does not leave any children or grandchildren through a son, or two or more siblings, the mother has a whole third except in two cases. One of them is if a man dies and leaves a wife and both parents. The wife has a fourth, the mother a third of what remains, (which is a fourth of the capital). The other is if a wife dies and leaves a husband and both parents. The husband gets half, and the mother a third of what remains, (which is a sixth of the capital). That is because Allah, the Blessed, the Exalted, says in His Book, 'His two parents each have a sixth of what he leaves if he has children. If he does not have children, and his parents inherit from him, his mother has a third. If he has siblings, the mother has a sixth.' (Sura 4 ayat 11). The sunna is that the siblings be two or more."

Section: Inheritance of Maternal Half-Siblings

Book 27, Number 27.4.0d:

Malik said, "The generally agreed upon way of doing things among us is that maternal half-siblings do not inherit anything when there are children or grandchildren through sons, male or female. They do not inherit anything when there is a father or the father's father. They inherit in what is outside of that. If there is only one male or female, they are given a sixth. If there are two, each of them has a sixth. If there are more than that, they share in a third which is divided among them. The male has a portion of two females. That is because Allah, the Blessed, the

Exalted, says in His Book, 'If a man or woman has no direct heir, and he has a brother or sister, by the mother, each of them has a sixth. If there are more than two, they share equally in a third.' " (Sura 4 ayat 12).

Section: Inheritance of Full Siblings

Book 27, Number 27.5.0e:

Malik said, "The generally agreed on way of doing things among us is that full siblings do not inherit anything with sons nor anything with grandsons through a son, nor anything with the father. They do inherit with the daughters and the granddaughters through a son when the deceased does not leave a paternal grandfather. Any property that is left over, they are in it as paternal relations. One begins with the people who are allotted fixed shares. They are given their shares. If there is anything left over after that, it belongs to the full siblings. They divide it between themselves according to the Book of Allah, whether they are male or female. The male has a portion of two females. If there is nothing left over, they have nothing.

"If the deceased does not leave a father or a paternal grandfather or children or male or female grandchildren through a son, a single full sister gets a half. If there are two or more full sisters, they get two thirds. If there is a brother with them, sisters, whether one or more, do not have a fixed share. One begins with whoever shares in the fixed shares. They are given their shares. Whatever remains after that goes to the full siblings. The male has the portion of two females except in one case, in which the full siblings have nothing. They share in this case the third of the half-siblings by the mother. That case is when a woman dies and leaves a husband, a mother, half-siblings by her mother, and full siblings. The husband has a half. The mother has one sixth. The half-siblings by the mother have a third. Nothing is left after that, so the full siblings share in this case with the half-siblings by the mother in their third. The male has the portion of two females in as much as all of them are siblings of the deceased by the mother. They inherit by the mother. That is because Allah, the Blessed, the Exalted, said in His Book, 'If a man or a woman has no direct heir and he has a brother or a sister, each one of the two gets a sixth. If there are more than that, they share equally in the third. ' (Sura 4 ayat 12) . They therefore share in this case because all of them are siblings of the deceased by the mother."

Section: Inheritance of Paternal Half-Siblings

Book 27, Number 27.6.0f:

Malik said, "The generally agreed on wayof doing things among us is that when there are no full siblings with them, half-siblings by the father take the position of full siblings. Their males are like the males of the full siblings, and their females are like their females except in the case where the half-siblings by the mother and the full siblings share, because they are not offspring of the mother who joins these."

Malik said, "If there are both full siblings and half-siblings by the father and there is a male among the full siblings none of the half-siblings by the father have any inheritance. If there is one or more females in the full siblings and there is no male with them, the one full sister gets a half, and the half sister by the father gets a sixth, completing the two-thirds. If there is a male with the half-sisters by the father, they have no share. The people of fixed shares are given their shares and if there is

something left after that it is divided between the half-siblings by the father. The male has the portion of two females. If there is nothing left over, they get nothing. If the full siblings consist of two or more females, they get two-thirds, and the half-sisters by the father get nothing with them unless there is a half-brother by the father with them. If there is a half-brother by the father with them, the people of fixed shares are given their shares and if there is something left over after that, it is divided between the half-siblings by the father. The male gets the portion of two females. If there is nothing left over, they get nothing. Half-siblings by the mother, full-siblings, and half-siblings by the father, each have a sixth (when they are onlyone). Two and more share a third. The male has the same portion as the female. They are in the same position in it."

Section: Inheritance of Grandfathers

Book 27, Number 27.7.1:

Yahya related to me from Malik from Yahya ibn Said that he had heard that Muawiya ibn Abi Sufyan wrote to Zayd ibn Thabit asking him about the grandfather. Zayd ibn Thabit wrote to him, "You have written to me asking me about the grandfather. Allah knows best. That is part of what is only determined by the amirs, i.e. the khalifs. I was present with two khalifs before you who gave the grandfather a half with one sibling, and a third with two. If there were more siblings, they did not decrease his third."

Book 27, Number 27.7.2:

Yahya related to me from Malik from Ibn Shihab from Qabisa ibn Dhu'ayba that Umar ibn al-Khattab gave the grandfather "what people give him today."

Book 27, Number 27.7.31:

Yahya related to me from Malik that he had heard that Sulayman ibn Yasar said, "Umar ibn al-Khattab, Uthman ibn Affan, andZayd ibn Thabit gave the grandfather a third with full siblings". Malik said, "The generally agreed on way of doing things among us and what I have seen the people of knowledge in our city doing is that the paternal grandfather does not inherit anything at all with the father. He is given a sixth as a fixed share with the son and the grandson through a son. Other than that, when the deceased does not leave a mother or a paternal aunt, one begins with whoever has a fixed share, and they are given their shares. If there is a sixth of the property left over, the grandfather is given a sixth as a fixed share."

Malik said, "When someone shares with the grandfather and the full siblings in a specified share, one begins with whoever shares with them of the people of fixed shares. They are given their shares. What is left over after that belongs to the grandfather and the full siblings. Then one sees which is the more favourable of two alternatives for the portion of the grandfather. Either a third is allotted to him and the siblings to divide between them, and he gets a share as if he were one of the siblings, or else he takes a sixth from all the capital. Whichever is the best portion for the grandfather is given to him. What is left after that, goes to the full siblings. The male gets the portion of two females except in one particular case. The division in this case is different from the preceding one. This case is when a woman dies and leaves a husband, mother, full sister and grandfather. The husband gets a half, the mother gets a third, the grandfather gets a sixth, and the full sister gets a half. The

sixth of the grandfather and the half of the sister are joined and divided into thirds. The male gets the share of two females. Therefore, the grandfather has two thirds, and the sister has one third."

Malik said, "The inheritance of the half-siblings by the father with the grandfather when there are no full siblings with them, is like the inheritance of the full siblings (in the same situation). The males are the same as their males and the females are the same as their females. When there are both full siblings and half-siblings by the father, the full siblings include in their number the number of half-siblings by the father, to limit the inheritance of the grandfather, i.e., if there was only one full sibling with the grandfather. They would share, after the allotting of the fixed shares, the remainder of the inheritance between them equally. If there were also two half-siblings by the father, their number is added to the division of the sum, which would then be divided four ways. A quarter going to the grandfather and three-quarters going to the full siblings who annex the shares technically allotted to the half-siblings by the father. They do not include the number of half-siblings by the mother, because if there were only half-siblings by the father they would not inherit anything with the grandfather and all the capital would belong to the grandfather, and so the siblings would not get anything after the portion of the grandfather.

"It belongs to the full siblings more than the half-siblings by the father, and the half-siblings by the father do not get anything with them unless the full siblings consist of one sister. If there is one full sister, she includes the grandfather with the half-siblings by her father in the division, however many. Whatever remains for her and these half-siblings by the father goes to her rather than them until she has had her complete share, which is half of the total capital. If there is surplus beyond half of all the capital in what she and the half-siblings by the father acquire it goes to them. The male has the portion of two females. If there is nothing left over, they get nothing."

Section: Inheritance of Grandmothers

Book 27, Number 27.8.4:

Yahya related to me from Malik from Ibn Shihab from Uthman ibn Ishaq ibn Kharasha that Qabisa ibn Dhu'ayb said, "A grandmother came to Abu Bakr as-Siddiq and asked him for her inheritance. Abu Bakr said to her, 'You have nothing in the Book of Allah, and I do not know that you have anything in the sunna of the Messenger of Allah, may Allah bless him and grant him peace. Go away therefore, until I have questioned the people.' (i.e.the Companions). He questioned the people, and al-Mughira ibn Shuba said, 'I was present with the Messenger of Allah, may Allah bless him and grant him peace, when he gave the grandmother a sixth.' Abu Bakr said, 'Was there anybody else with you?' Muhammad ibn Maslama al-Ansari stood up and said the like of what al-Mughira said. Abu Bakr as-Siddiq gave it to her. Then the other grandmother came to Umar ibn al-Khattab and asked him for her inheritance. He said to her, "You have nothing in the Book of Allah, and what has been decided is only for other than you, and I am not one to add to the fixed shares, other than that sixth. If there are two of you together, it is between you. If eitherof you is left alone with it, it is hers."

Book 27, Number 27.8.5:

Yahya related to me from Malik from Yahya ibn Said that al-Qasim ibn Muhammad said, "Two grandmothers came to Abu Bakr asSiddiq, and he wanted to give the sixth to the one who was from the mother's side, and a man of the Ansar said, 'What? Are you omitting the one from whom he would inherit if she died while he was alive?' Abu Bakr divided the sixth between them.~

Book 27, Number 27.8.6:

Yahya related to me from Malik from Abdu Rabbih ibn Said that Abu Bakr ibn Abd ar-Rahman ibn al-Harith ibn Hisham only gave a fixed share to two grandmothers (together).

Malik said, "The generally agreed on way of doing things among us in which there is no dispute and which I saw the people of knowledge in our city doing, is that the maternal grandmother does not inherit anything at all with the mother. Outside of that, she is given a sixth as a fixed share. The paternal grandmotherdoes not inherit anything along with the mother or the father. Outside of that she is given a sixth as a fixed share." If both the paternal grandmother and maternal grandmother are alive, and the deceased does not have a father or mother outside of them, Malik said,."I have heard that if the maternal grandmother is the nearest of the two of them, then she has a sixth instead of the paternal grandmother. If the paternal grandmother is nearer, or they are in the same position in relation to the deceased, the sixth is divided equally between them."

Malik said, "None of the female grand-relations except for these two has any inheritance because I have heard that the Messenger of Allah, may Allah bless him and grant him peace, gave the grandmother inheritance, and then Abu Bakr asked about that until someone reliable related from the Messenger of Allah, may Allah bless him and grant him peace, that he had made the grandmother an heir and given a share to her. Another grandmother came to Umar ibn al-Khattab, and he said, 'I am not one to add to fixed shares. If there are two of you together, it is between you. If either of you is left alone with it, it is hers.' " Malik said, "We do not know of anyone who made other than the two grandmothers heirs from the beginning of Islam to this day."

Book 27, Number 27.8.7:

Yahya related to me from Malik from Zayd ibn Aslam that Umar ibn al-Khattab asked the Messenger of Allah, may Allah bless him and grant him peace, about someone who died without parents or offspring, and the Messenger of Allah, may Allah bless him and grant him peace, said to him, "The ayat which was sent down in the summer at the end of the Surat an-Nisa (Sura 4) is enoughfor you."

Malik said, "The generally agreed on way of doing things among us, in which there is no dispute, and which I saw the people of knowledge in our city doing, is that the person who leaves neither parent or offspring can be of two types. As for the kind described in the ayat which was sent down at the beginning of the Surat an-Nisa in which Allah, the Blessed, the Exalted! said, 'If a man or a woman has no direct heir, but has a brother or a sister by the mother, each of the two has a sixth. If there are more than that, they share equally in a third.' (Sura 4 ayat 12) This heirless one does not have heirs among his mother's siblings since there are no children or parents. As for the other kind described in the ayat which comes at the end of the Surat an-Nisa, Allah, the Blessed, the Exalted, said in it, 'They will ask you for a decision. Say,

"Allah gives you a decision about the indirect heirs. If a man perishes having no children, but he has a sister, she shall receive a half of what he leaves, and he is her heir if she has no children. If there are two sisters, they shall receive two-thirds of what he leaves. If there are brothers and sisters, the male shall receive the portion of two females. Allah makes clear to you that you might not go astray. Allah has knowledge of everything" ' " (Sura 4 ayat 176).

Malik said, "If this person without direct heirs (parents) or children has siblings by the father, they inherit with the grandfather from the person without direct heirs. The grandfather inherits with the siblings because he is more entitled to the inheritance than them. That is because he inherits a sixth with the male children of the deceased when the siblings do not inherit anything with the male children of the deceased. How can he not be like one of them when he takes a sixth with the children of the deceased? How can he not take a third with the siblings while the brother's sons take a third with them? The grandfather is the one who overshadows the half-siblings by the mother and keeps them from inheriting. He is more entitled to what they have because they are omitted for his sake. If the grandfather did not take that third, the half-siblings by the mother would take it and would take what does not return to the half-siblings by the father. The half-siblings by the mother are more entitled to that third than the half-siblings by the father while the grandfather is more entitled to that than the half-siblings by the mother."

Section: Paternal Aunts

Book 27, Number 27.9.8:

Yahya related to me from Malik from Muhammad ibn Abi Bakr ibn Muhammad ibn Amribn Hazm that Abdar-Rahman ibn Hanthala az-Zurqi was informed by a mawla of Quraysh,who used to be known as Ibn Mursi, that he was sitting with Umar ibn al-Khattab, and when they had prayed dhuhr, he said, "Yarfa! Bring that letter! (a letter which he had written about the paternal aunt.) We asked about her and asked for information about her." Yarfa brought it to him. He called for a small vessel or a drinking-bowl in which there was water. He erased the letter in it. Then he said, "Had Allah approved of you as an heir, we would have confirmed you. Had Allah approved of you, we would have confirmed you."

Book 27, Number 27.9.9:

Yahya related to me from Malik that Muhammad ibn Abi Bakr ibn Hazm heard his father say many times, "Umar ibn al-Khattab used to say, 'It is a wonder that the paternal aunt is inherited from and does not inherit.' "

Section: Inheritance of Paternal Relations

Book 27, Number 27.10.9a:

Malik said, "The generally agreed on way of doing things among us, in which there is no dispute, and which I saw the people of knowledge in our city doing, about paternal relations is that full brothers are more entitled to inherit than half-brothers by the father and half-brothers by the father are more entitled to inherit than the children of the full brothers. The sons of the full brothers are more entitled to inherit than the sons of the half-brothers by the father. The sons of the half-brothers by the father are more entitled to inherit than the sons of the sons of the full brothers. The

sons of the sons of the half-brothers by the father's side are more entitled to inherit than the paternal uncle, the full brother of the father. The paternal uncle, the full brother of the father, is more entitled to inherit than the paternal uncle, the half-brotherof the father on the father's side. The paternal uncle, the half-brother of the father on the father's side is more entitled to inherit than the sons of the paternal uncle, the full brother of the father. The son of the paternal uncle on the father's side is more entitled to inherit than the paternal great uncle, the full brother of the paternal grandfather."

Malik said, "Everything about which you are questioned concerning the inheritance of the paternal relations is like this. Trace the genealogy of the deceased and whoever among the paternal relations contends for inheritance. If you find that one of them reaches the deceased by a father and none of them except him reaches him by a father, then make his inheritance to the one who reaches him by the nearest father, rather than the one who reaches him by what is above that. If you find that they all reach him by the same father who joins them, then see who is the nearest of kin. If there is only one half-brother by the father, give him the inheritance rather than more distant paternal relations. If there is a full brother and you find them equally related from a number of fathers or to one particular father so that they all reach the genealogy of the deceased and they are all half-brothers by the father or full brothers, then divide the inheritance equally among them. If the parent of one of them is an uncle (the full-brother of the father of the deceased) and whoever is with him is an uncle (the paternal half brother of the father of the deceased), the inheritance goes to the sons of the full brother of the father rather than the sons of the paternal half-brother of the father. That is because Allah, the Blessed, the Exalted, said, 'Those related by blood are nearer to one another in the Book of Allah, surely Allah has knowledge of everything.' "

Malik said, "The paternal grandfather, is more entitled to inherit than sons of the full-brother, and more entitled than the uncle, the full brother of the father. The son of the father's brother is more entitled to inherit from mawali retainers (freed slaves) than the grandfathers."

Section: People who do Not Inherit

Book 27, Number 27.11.9b:

Malik said, "The generally agreed on way of doing things among us in which there is no dispute and which I saw the people of knowledge in our citydoing, is that the child of the half-sibling by the mother, the paternal grandfather, the paternal uncle who is the maternal half-brother of the father, the maternal uncle, the great-grandmother who is the mother of the mother's father, the daughter of the full-brother, the paternal aunt, and the maternal aunt do not inherit anything by their kinship."

Malik said, "The woman who is the furthest relation of the deceased of those who were named in this book, does not inherit anything by her kinship, and women do not inherit anything apart from those that are named in the Qur'an. Allah, the Blessed, the Exalted, mentioned in His Book the inheritance ofthe mother from her children, the inheritance of the daughters from their father, the inheritance of the wife from her husband, the inheritance of the full sisters, the inheritance of the half-sisters by the father and the inheritance of the half-sisters by the mother. The grandmother is made an heir by the example of the Prophet, may Allah bless him

and grant him peace, made about her. A woman inherits from a slave she frees herself because Allah, the Blessed, the Exalted, said in His Book, 'They are your brothers in the deen and your mawali.' "

Section: Inheritance from People of Other Religions

Book 27, Number 27.12.10:

Yahya related to me from Malik from Ibn Shihab from Ali ibn Husayn ibn Ali from Umar ibn Uthman ibn Affan from Usama ibn Zayd that the Messenger of Allah, may Allah bless him and grant him peace, said, "A muslim does not inherit from a kafir."

Book 27, Number 27.12.11:

Yahya related to me from Malik from Ibn Shihab that Ali ibn Husayn ibn Ali ibn Abi Talib told him that Aqil and Talib inherited from Abu Talib, and Ali did not inheritfrom him. Ali said, "Because of that, we have given up our portion of ash Shab." (A house belonging to Banu Hashim).

Book 27, Number 27.12.12:

Yahya related to me from Malik from Yahya ibn Said from Sulayman ibn Yasar that Muhammad ibn al-Ashath told him that he had a christian or jewish paternal aunt who died. Muhammad ibn al-Ashath mentioned that to Umar ibn al-Khattab and said to him, "Who inherits from her?" Umar ibn al-Khattab said to him, "The people of her deen inherit from her." Then he went to Uthman ibn Affan, and asked him about that. Uthman said to him, "Do you think that I have forgotten what Umar ibn al-Khattab said to you? The people.of her deen inherit from her."

Book 27, Number 27.12.13:

Yahya related to me from Malik from Yahya ibn Said from Ismail ibn Abi Hakim that Umar ibn Abd al-Aziz freed a christian who then died. Ismail said, "Umar ibn Abd al-Aziz ordered me to put his property in the bayt al-mal."

Book 27, Number 27.12.14:

Yahya related to me from Malik from a reliable source of his who had heard Said ibn al-Musayyab say, "Umar ibn al-Khattab refused to let anyone inherit from the non-arabs except for one who was born among the arabs."

Malik said, "If a pregnant woman comes from the land of the enemy and gives birth in arab land so that he is her (an arab) child, he inherits from her if she dies, and she inherits from him if he dies, by the Book of Allah."

Malik said, "The generally agreed on way of doing things among us and the sunna in which there is no dispute, and what I saw the people of knowledge in our city doing, is that a Muslim does not inherit from a kafir by kinship, clientage (wala'), or maternal relationship, nor does he (the Muslim) overshadow any (of the kafirs) from his inheritance.

Malik said, "Similarly, someone who forgoes his inheritance when he is the chief heir does not overshadow anyone from his inheritance."

Section: People Killed in Battle or Otherwise whose Situation in Inheritance is Not Known

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Book 27, Number 27.13.15:

> Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman from more than one of the people of knowledge of that time, that those who were killed on the Day of the Camel, the Day of Siffin, the Day of al-Harra, and the Day of Qudayd did not inherit from each other. None of them inherited anything from his companion unless it was known that he had been killed before his companion.
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> Malik said, "That is the way of doing things about which there is no dispute, and which none of the people of knowledge in our city doubt. The procedure with two mutual heirs who are drowned, or killed in another way, when it is not known which of them died first is the same - neither of them inherits anything from his companion. Their inheritance goes to whoever remains of their heirs. They are inherited from by the living."
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> Malik said, "No one should inherit from anyone else when there is doubt, and one should only inherit from the other when there is certainty of knowledge and witnesses. That is because a man and his mawla whom his father has freed might die at the same time. The sons of the free man could say, 'Our father inherited from the mawla.' They should not inherit from the mawla without knowledge or testimony that he died first. The living people most entitled to his wala' inherit from him."
>
> Malik said, "Another example is two full brothers who die. One of them has children and the other does not. They have a half-brother by their father. It is not known which of them died first, so the inheritance of the childless one goes to his half-brother by the father. The children of the full-brother get nothing."
>
> Malik said, "Another example is when a paternal aunt and the son of her brother die, or else the daughter of the brother and her paternal uncle. It is not known which of them died first. The paternal uncle does not inherit anything from the daughter of his brother, and the son of the brother does not inherit anything from his paternal aunt."

Section: The Inheritance of the Child of Lian and the Child of Fornication

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Book 27, Number 27.14.16:

> Yahya related to me from Malik that he had heard that Urwa ibn az-Zubayr said about the child of lian and the child of fornication, that if they died, the mother inherited her right from them according to the Book of Allah, the Mighty, the Majestic! The siblings by the mother had their rights. The rest was inherited by the former masters of the mother if she was a freed slave. If she was a free woman by origin, she inherited her due and the siblings by the mother inherited their due, and the rest went to the Muslims.
>
> Malik said, "I heard the same as that from Sulayman ibn Yasar."
>
> Malik said, "That is what I saw the people of knowledge in our city doing."

Translation of Malik's Muwatta, Book 28:

Marriage

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Section: Asking for Someone's Hand in Marriage

Book 28, Number 28.1.1:

Yahya related to me from Malik from Muhammad ibn Yahya ibn Habban from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Do not ask for a woman in marriage when another muslim has already done so."

Book 28, Number 28.1.2:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Do not ask for a woman in marriage when another muslim has already done so."

Malik said, "The explanation of the statement of the Messenger of Allah, may Allah bless him and grant him peace, according to what we think - and Allah knows best - is that 'Do not ask for a woman in marriage when another muslim has already done so' means that when a man has asked for a woman in marriage, and she has inclined to him and they have agreed on a bride-price, which she has suggested and with which they are mutually satisfied, it is forbidden for another man to ask for that woman in marriage. It does not mean that when a man has asked for a woman in marriage, and his suit does not agree with her and she does not incline to him that no one else can ask for her in marriage. That is a door to misery for people."

Book 28, Number 28.1.3:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim that his father said about the word of Allah, the Blessed, the Exalted, "There is no fault in you about the proposal you offer to women, or hide in yourselves. Allah knows that you will be mindful of them; but do not make troth with them secretly without honourable words," (Sura 2 ayat 235) that it referred to a man saying to a woman while she was still in her idda after the death of her husband, "You are dear to me, and I desire you, and Allah brings provision and blessing to you," and words such as these.

Section: Asking Consent of Virgins and Women Previously Married for their Persons

Book 28, Number 28.2.4:

Malik related to me from Abdullah ibn al-Fadl from Nafi ibn Jubayr ibn Mutim from Abdullah ibn Abbas that the Messenger of Allah, may Allah bless him and grant him peace, said, "A woman who has been previously married is more entitled to her person than her guardian, and a virgin must be asked for her consent for herself, and her consent is her silence "

Book 28, Number 28.2.5:

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab had said that Umar ibn al-Khattab said, "A woman is only married with the consent of her guardian, someone of her family with sound judgement or the Sultan.

Book 28, Number 28.2.6:

Yahya related to me from Malik that he had heard that al-Qasim ibn Muhammad and Salim ibn Abdullah were marrying off their daughters and they did not consult them.

Malik said, "That is what is done among us about the marriage of virgins."

Malik said, "A virgin has no right to her property until she enters her house and her state (competence, maturity etc.) is known for sure."

Book 28, Number 28.2.7:

Yahya related to me from Malik that he had heard that al-Qasim ibn Muhammad and Salim ibn Abdullah and Sulayman ibn Yasar said about the virgin given by her father in marriage without her permission, "That is binding on her."

Section: The Bride-Price and Unreturnable Gifts

Book 28, Number 28.3.8:

Yahya related to me from Malik from Malik from Abu Hazim ibn Dinar from Sahl ibn Sad as-Saidi that a woman came to the Messenger of Allah, may Allah bless him and grant him peace, and said, "Messenger of Allah! I have given myself to you." She stood for a long time, and then a man got up and said, "Messenger of Allah, marry her to me if you have no need of her." The Messenger of Allah, may Allah bless him and grant him peace, said, "Do you have anything to give her as a bride-price?" He said, "I possess only this lower garment of mine." The Messenger of Allah, may Allah bless him and grant him peace, said, "If you give it to her you will not have a garment to wear so look for something else." He said, "I have nothing else." He said, "Look for something else, even if it is only an iron ring." He looked, and found that he had nothing. The Messenger of Allah, may Allah bless him and grant him peace, said, "Do you know any of the Qur'an?" He said, "Yes. I know such-and-such a sura and such-and-such a sura," which he named. The Messengerof Allah, may Allah bless him and grant him peace, said to him, "I have married her to you for what you know of the Qur'an."

Book 28, Number 28.3.9:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab had said that Umar ibn al-Khattab said, "If a man marries a woman who is insane, or has leprosy or white leprosy, without being told of her condition by her guardian, and he has sexual relations with her, she keeps her bride-price in its entirety. Her husband has damages against her guardian."

Malik said, "The husband has damages against her guardian when the guardian is her father, brother, or one who is deemed to have knowledge of her condition. If the

guardian who gives her in marriage is a nephew, a mawla or a member of her tribe who is not deemed to have knowledge of her condition, there are no damages against him, and the woman returns what she has taken of her bride-price, and the husband leaves her whatever amount is thought to be fair."

Book 28, Number 28.3.10:

Yahya related to me from Malik from Nafi that the daughter of Ubaydullah ibn Umar whose mother was the daughter of Zayd ibn al-Khattab, married the son of Abdullah ibn Umar. He died and had not yet consummated the marriage or specified her bride-price. Her mother wanted the bride-price, and Abdullah ibn Umar said, "She is not entitled to a bride-price. Had she been entitled to a bride-price, we would not have kept it and we would not do her an injustice. "The mother refused to accept that. Zayd ibn Thabit was brought to adjudicate between them and he decided that she had no bride-price, but that she did inherit.

Book 28, Number 28.3.11:

Yahya related to me from Malik that he had heard that Umar ibn Abd al-Aziz during his khalifate, wrote to one of his governors, "Whatever a father, or guardian, who gives someone in marriage, makes a condition in the way of unreturnable gift or of favour, belongs to the woman if she wants it."

Malik spoke about a woman whose father gave her in marriage and made an unreturnable gift a condition of the bride-price which was to be given. He said, "Whatever is given as a condition by which marriage occurs belongs to the woman if she wants it. If the husband parts from her before the marriage is consummated, the husband has half of the unreturnable gift by which the marriage occurred."

Malik said about a man who married off his young son and the son had no wealth at all, that the bride-price was obliged of the father if the young man had no property on the day of marriage. If the young man did have property the bride-price was taken from his property unless the father stipulated that he would pay the bride-price. The marriage was affirmed for the son if he was a minor only if he was under the guardianship of his father.

Malik said that if a man divorced his wife before he had consummated the marriage and she was a virgin, her father returned half of the bride-price to him. That half was permitted to the husband from the father to compensate him for his expenses.

Malik said that that was because Allah, the Blessed, the Exalted, said in His Book, "Unless they (women with whom he had not consummated marriage) make remission or he makes remission to him in whose hand is the knot of marriage." (Sura 2 ayat 237). (He being the father of a virgin daughter or the master of a female slave.)

Malik said, "That is what I have heard about the matter, and that is how things are done among us."

Malik said that a jewish or christian woman who was married to a jew or christian and then became muslim before the marriage had been consummated, did not keep anything from the bride-price.

Malik said, "I do not think that women should be married for less than a quarter of a dinar. That is the lowest amount for which cutting off the hand is obliged ."

Section: Consummating the Marriage

Book 28, Number 28.4.12:

Yahya related to me from Malik from Yahya ibn Said from Said ibn al-Musayyab that 'Umar ibn al-Khattab decided about the woman who was married by a man and the marriage had been consummated, that the bride-price was obligatory.

Book 28, Number 28.4.13:

Yahya related to me from Malik from Ibn Shihab that Zayd ibn Thabit said, "When a man takes his wife to his house and co-habits with her then the bride-price is obliged."

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab said, "When a man comes to his wife in her room, he is believed. When she comes to him in his room, she is believed."

Malik commented, "I think that this refers to sexual intercourse. When he comes in to her in her room and she says, 'He has had intercourse with me' and he says, 'I have not touched her', he is believed. When she comes in to him in his room and he says, 'I have not had intercourse with her' and she says, 'He had intercourse with me', she is believed."

28.5 Wedding Nights of Virgins and Women Previously Married

Section: Wedding Nights of Virgins and Women Previously Married

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Book 28, Number 28.5.14:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Muhammad ibn Amr ibn Hazm from Abd al-Malik ibn Abi Bakr ibn Abd ar-Rahman ibn al-Harith ibn Hisham al-Makhzumi from his father that when the Messenger of Allah, may Allah bless him and grant him peace, married Umm Salama and then spent the night with her, he said to her, "You are not being humbled in your right. If you wish, I will stay with you for seven nights as I stayed seven nights with the others. If you wish, I will stay with you for three nights, and then visit the others in turn." She said, "Stay three nights."

Book 28, Number 28.5.15:

Yahya related to me from Malik from Humayd at-Tawil that Anas ibn Malik said, "A virgin has seven nights, and a woman who has been previously married has three nights."

Malik affirmed, "That is what is done among us."

Malik added, "If the man has another wife, he divides his time equally between them after the wedding nights. He does not count the wedding nights against the one he has just married."

Section: Stipulations Not Permitted in Marriage

Book 28, Number 28.6.16:

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab was asked about a woman who made a stipulation on her husband not to take her away from her town. Said ibn al-Musayyab said, "He takes her away if he wishes."

Malik said, "The custom among us is that when a man marries a woman, and he makes a condition in the marriage contract that he will not marry after her or take a concubine, it means nothing unless there is an oath of divorce or setting-free attached to it. Then it is obliged and required of him."

Section: Marriage of the Muhallil and its Like

Book 28, Number 28.7.17:

Yahya related to me from Malik from al-Miswar ibn Rifaa al-Quradhi from az-Zubayr ibn Abd ar-Rahman ibn az-Zubayr that Rifaa ibn Simwal divorced his wife, Tamima bint Wahb, in the time of the Messenger of Allah, may Allah bless him and grant him peace, three times. Then she married Abd ar-Rahman ibn az-Zubayr and he turned from her and could not consummate the marriage and so he parted from her. Rifaa wanted to marry her again and it was mentioned to the Messenger of Allah, may Allah bless him and grant him peace, and he forbade him to marry her. He said, "She is not halal for you until she has tasted the sweetness of intercourse."

Book 28, Number 28.7.18:

Yahya related to me from Malik from Yahya ibn Said from al-Qasim ibn Muhammad that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said when asked whether it was permissible for a man to marry again a wife he had divorced irrevocably if she had married another man who divorced her before consummating the marriage, "Not until she has tasted the sweetness of intercourse."

Book 28, Number 28.7.19:

Yahya related to me from Malik that he had heard that when asked whether it was permissible for a man to return to his wife if he had divorced her irrevocably and then another man had married her after him and died before consummating the marriage, al-Qasim ibn Muhammad said, "It is not halal for the first husband to return to her."

Malik said, about the muhallil, that he could not remain in the marriage until he undertook a new marriage. If he had intercourse with her in that marriage, she had her dowry.

Section: Combinations of Women Not to be Married Together

Book 28, Number 28.8.20:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said "One cannot be married to a woman and her paternal aunt, or a woman and her maternal aunt at the same time."

Book 28, Number 28.8.21:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab said, "It is forbidden to be married to a woman and her paternal or maternal aunt at the same time, and for a man to have intercourse with a female slave who is carrying another man's child."

Section: Prohibition against Marrying Mothers of Wives

Book 28, Number 28.9.22:

Yahya related to me from Malik from Yahya ibn Said that Zayd ibn Thabit asked whether it was halal for a man who married a woman and then separated from her before he had cohabited with her, to marry her mother. Zayd ibn Thabit said, "No. The mother is prohibited unconditionally. There are conditions, however about foster-mothers."

Book 28, Number 28.9.23:

Yahya related to me from Malik from more than one source that when Abdullah ibn Masud was in Kufa, he was asked for an opinion about marrying the mother after marrying the daughter when the marriage with the daughter had not been consummated. He permitted it. When Ibn Masud came to Madina, he asked about it and was told that it was not as he had said, and that this condition referred to foster-mothers. Ibn Masud returnedto Kufa,and he had just reached his dwelling when the man who had asked him for the opinion came to visit and he ordered him to separate from his wife.

Malik said that if a man married the mother of a woman who was his wife and he had sexual relations with the mother then his wife was haram for him, and he had to separate from both of them. They were both haram to him forever, if he had had sexual relations with the mother. If he had not had relations with the mcther, his wife was not haram for him, and he separated from the mother.

Malik explained further about the man who married a woman, and then married her mother and cohabited with her, "The mother will never be halal for him, and she is not halal for his father or his son, and any daughters of hers are not halal for him and so his wife is haram for him."

Malik said, "Fornication however, does not make any of that haram because Allah, the Blessed, the Exalted, mentioned 'the mothers of your wives,' as one whom marriage made haram, and he didn't mention the making haram by fornication. Every marriage in a halal manner in which a man cohabits with his wife, is a halal marriage. This is what I have heard, and this is how things are done among us."

Section: Marriage to Mothers of Women with Whom One has had Sexual Relations in a Disapproved Manner

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Book 28, Number 28.10.23a:

Malik said that a man who had committed fornication with a woman and the hadd-punishment had been applied to him for it, could marry that woman's daughter and his son could marry the woman herself if he wished. That was because he had haram relations with her, and the relations Allah had made haram were from the

relations made in a halal manner or in a manner resembling marriage. Allah, the Blessed, the Exalted, said, "Do not marry the women your fathers have married. " (Sura 4 ayat 21)

Malik said, "If a man were to marry a woman in her idda-period in a halal marriage and have relations with her, it would be haram for his son to marry the woman. That is because the father married her in a halal manner, and the hadd-punishment would not have been applied to him. Any child who was born to him would be attached to him as the father. Just as it would be haram for the son to marry a woman whom his father had married in her idda-period and had relations with, so the woman's daughter would be haram for the father if he had had sexual relations with her."

Section: What is Not Permitted in Marriage in General

Book 28, Number 28.11.24:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, forbade shighar, which meant one man giving his daughter in marriage to another man on the condition that the other gave his daughter to him in marriage without either of them paying the bride-price.

Book 28, Number 28.11.25:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim from his father from Abd ar-Rahman and Mujamma the sons of Yazid ibn Jariya al-Ansari from Khansa bint Khidam al-Ansariya that her father gave her in marriage and she had been previously married. She disapproved of that, and went to the Messenger of Allah, may Allah bless him and grant him peace, and he revoked the marriage.

Book 28, Number 28.11.26:

Yahya related to me from Malik from Abu'z-Zubayr al-Makki that a case was brought to Umar about a marriage which had only been witnessed by one man and one woman . He said, "This is a secret marriage and I do not permit it. Had I been the first to come upon it, I would have ordered them to be stoned."

Book 28, Number 28.11.27:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab and from Sulayman ibn Yasar that Tulayha al-Asadiya was the wife of Rushayd ath-Thaqafi. He divorced her, and she got married in her idda-period. Umar ibn al-Khattab beat her and her husband with a stick several times, and separated them. Then Umar ibn al-Khattab said, "If a woman marries in her idda-period, and the new husband has not consummated the marriage, then separate them, and when she has completed the idda of her first husband, the other becomes a suitor. If he has consummated the marriage then separate them. Then she must complete her idda from her first husband, and then the idda from the other one, and they are never to be reunited."

Malik added, "Said ibn al-Musayyab said that she had her dowry because he had consummated the marriage."

Malik said,"The practice with us concerning a free woman whose husband dies, is

that she does an idda of four months and ten days and she does not marry if she doubts her period until she is free of any doubt or if she fears that she is pregnant."

Section: Marrying Slaves when already Married to Free Women

Book 28, Number 28.12.28:

Yahya related to me from Malik that he had heard that Abdullah ibn Abbas and Abdullah ibn Umar were asked about a man who had a free woman as a wife and then wanted to marry a slave-girl. They disapproved that he should combine the two of them.

Book 28, Number 28.12.29:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab said, "The slave girl is not married when there is a free woman who is a wife unless the free woman wishes it. If the free woman complies, she has two-thirds of the division of time."

Malik said, "A free man must not marry a slave-girl when he can afford to marry a free-woman, and he should not marry a slave-girl when he cannot afford a free woman unless he fears fornication. That is because Allah, may he be Blessed and Exalted, says in His Book, 'If you are not affluent enough to marry believing women, who are muhsanat, take slave-girls who are believing women that your right hands own.' (Sura 4 ayat 24) He says, 'That is for those of you who fear al-anat.' "

Malik said, "Al-anat is fornication."

Section: A Man's Owning a Slave Whom He has Married and then Divorced

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Book 28, Number 28.13.30:

Yahya related to me from Malik from Ibn Shihab from Abu Abd ar-Rahman that Zayd ibn Thabit said that if a man divorced his slave-girl three times and then bought her, she was not halal for him until she had married another husband.

Book 28, Number 28.13.31:

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab and Sulayman ibn Yasar were asked whether, when a man married a slave of his to a slave-girl and the slave divorced her irrevocably, and then her master gave her to the slave, she was then halal for the slave by the possession of the right hand. They said, "No. She is not halal until she has married another husband."

Book 28, Number 28.13.32:

Yahya related to me from Malik that he had asked Ibn Shihab about a man who had a slave-girl as a wife, and then he bought her, and divorced her once. He said, "She is halal for him by the possession of the right hand as long as he does not make his divorce irrevocable. If he irrevocably divorces her, she is not halal for him by the possession of the right hand until she has married another husband."

Malik said that if a man rnarried a female slave and then she had a child by him, and then he bought her, she was not an umm walad for him because of the child born to him while she belonged to another, until she had had a child by him while she was in his possession after he had purchased her.

Malik said, "If he buys her and she is pregnant by him and she then gives birth while she belongs to him, she is his umm walad by that pregnancy, according to what we think, and Allah knows best."

Section: Reprehensibility of Intercourse with Two Sisters or a Mother and Daughter that One Owns

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Book 28, Number 28.14.33:

Yahya related to me from Malik from Ibn Shihab from Ubaydullah ibn Abdullah ibn Utba ibn Masud from his father that Umar ibn al-Khattab was asked about a woman and her daughter who were in the possession of the right hand, and whether one could have intercourse with one of them after the other Umar said, "I dislike both being permitted together." He then forbade that.

Book 28, Number 28.14.34:

Yahya related to me from Malik from Ibn Shihab from Qabisa ibn Dhu'ayb that a man asked Uthman ibn Affan whether one could have intercourse with two sisters who one owned. Uthman said, "One ayat makes them halal, and one ayat makes them haram. As for me, I wouldn't like to do it." The man left him and met one of the companions of the Messenger of Allah, may Allah bless him and grant him peace, and asked him about it, and he said, "Had I any authority and I found someone who had done it, I would punish him as an example."

Ibn Shihab added, "I think that it was Ali ibn Abi Talib. "

Book 28, Number 28.14.35:

Yahya related to me from Malik that he had heard that az-Zubayr ibn al-Awwam said the like of that.

Malik said that if a man had sexual relations with a female slave that he owned, and then he wanted to also have relations with her sister, the sister was not halal for a man until intercourse with the slave-girl had been made haram for him by marriage, setting free, kitaba, or the like of that - for instance, if he had married her to his slave or someone other than his slave.

Section: Prohibition against Intercourse with a Slave-Girl who Belonged to One's Father

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Book 28, Number 28.15.36:

Yahya related to me from Malik that he had heard that Umar ibn al-Khattab gave his son a slave-girl and said, "Do not touch her, for I have uncovered her."

Yayha related to me from Malik that Abd arRahman ibn al-Mujabbir said that Salim ibn Abdullah gave his son a slave-girl and said, "Do not go near her, for I wanted her, and did not act towards her."

Book 28, Number 28.15.37:

Yahya related to me from Malik from Yahya ibn Said that Abu Nahshal ibn al-Aswad said to al-Qasim ibn Muhammad,"I saw a slave-girl of mine uncovered in the moonlight, and so I sat on her as a man sits on a woman. She said that she was menstruating, so I stood up and have not gone near her after that. Can I give her to my son to have intercourse with?" Al-Qasim forbade that.

Book 28, Number 28.15.38:

Yahya related to me from Malik from Ibrahim ibn Abi Abla from Abd al-Malik ibn Marwan that he gave a slave-girl to a friend of his, and later asked him about her. He said, "I intended to give her to my son to do such-and-such with her." Abd al-Malik said, "Marwan was more scrupulous than you. He gave a slave-girl to his son, and then he said, 'Do not go near her, for I have seen her leg uncovered .' "

Section: Prohibition against Marrying Slave-Girls of the People of the Book

Book 28, Number 28.16.38a:

Malik said, "It is not halal to marry a christian or jewish slave-girl because Allah the Blessed, the Exalted, said in His Book, 'Believing women who are muhsanat and women of those who were given the Book before you who are muhsanat', (sura 5 ayat 6) and they are free women from the Christians and Jews. Allah, the Blessed, the Exalted, said in His Book, 'If you are not affluent enough to marry believing women who are muhsanat, take believing slave-girls whom your right hands own.' " (Sura 4 ayat 24)

Malik said, "In our opinion, Allah made marriage to believing slave-girls halal, and He did not make halal marriage to christian and jewish slave-girls from the People of the Book."

Malik said, "The christian and jewish slave-girl are halal for their master by right of possession, but intercourse with a magian slave-girl is not halal by the right of possession."

Section: Muhsanat

Book 28, Number 28.17.39:

Yahya related to me from Malik from Ibn Shihab that Said ibn al-Musayyab said, "The muhsanat among women are those who have husbands." That referred to the fact that Allah has made fornication haram.

Book 28, Number 28.17.40:

Yahya related to me from Malik from Ibn Shihab, and he had heard from al-Qasim ibn Muhammad that they said, "When a free man marries a slave-girl and consummates the marriage, she makes him muhsan."

Malik said, "All (of the people of knowledge) I have seen said that a slave-girl makes a free man muhsan when he marries her and consummates the marriage."

Malik said, "A slave makes a free woman muhsana when he consummates a marriage with her and a free woman only makes a slave muhsan when he is freed and he is her husband and has had sexual relations with her after he has been set free. If he parts from her before he is free, he is not a muhsan unless he marries her after having been set free and he consummates the marriage."

Malik said, "When a slave-girl is married to a free man and then he separates from her before she is set free, his marriage to her does not make her muhsana. She is not muhsana until she has married after she has been set free and she has had intercourse with her husband. That gives her ihsan. If she is the wife of a freeman and then she is set free while she is his wife before he separates from her, the man makes her muhsana if he has intercourse with her after she has been set free."

Malik said, "The christian and jewish free women and the muslim slave-girl all make a muslim free man muhsan when he marries one of them and has intercourse with her."

Section: Temporary Marriage

Book 28, Number 28.18.41:

Yahya related to me from Malik from Ibn Shihab from Abdullah and Hasan, the sons of Muhammad ibn Ali ibn Abi Talib from their ather, mayAllah be pleased with him, that the Messenger of Allah, may Allah bless him and grant him peace, forbade temporary marriage with women and the flesh of domestic donkeys on the Day of Khaybar.

Book 28, Number 28.18.42:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr that Khawla ibn Hakim came to Umar ibn al-Khattab and said, "Rabia ibn Umayya made a temporary marriage with a woman and she is pregnant by him." Umar ibn al-Khattab went out in dismay dragging his cloak, saying, "This temporary marriage, had I come across it, I would have ordered stoning and done away with it! "

Section: Marriage of Slaves

Book 28, Number 28.19.43:

Yahya related to me from Malik that he heard Rabia ibn Abd ar-Rahman say that a slave could marry four women.

Malik said, "This is the best of what I have heard about the matter."

Malik said, "The slave differs with the muhallil if the slave is given permission by his master for his ex-wife. If his master does not give him permission, he separates them. The muhallil is separated in any case if he intends to make the woman halal by marriage."

Malik said, "When a slave is owned by his wife or a husband owns his wife, the possession of each of them is rendered void without divorce. If a man, for instance, is married to a slave-girl, and then he buys her, he must divorce her as a matter of course. They can then re-marry. If they re-marry afterwards, that separation was not divorce."

Malik said, "When a slave is freed by his wife who owns him and she is in the idda-period from him, they can only return to each other after she has made another marriage."

Section: Marriage of Idol Worshippers when their Wives become Muslim before Them

Book 28, Number 28.20.44:

Malik related to me from Ibn Shihab that he had heard that in the time of the Messenger of Allah, may Allah bless him and grant him peace, women were becoming muslim in their own lands and they did not do hijra while their husbands were still kafirun although they themselves had become muslim. Among them was the daughter of al-Walid ibn al-Mughira and she was the wife of Safwan ibn Umayya. She became muslim on the day of the conquest (of Makka), and her husband, Safwan ibn Umayya fled from Islam. The Messenger of Allah, may Allah bless him and grant him peace, sent Safwan's paternal cousin, Wahb ibn Umayr with the cloak of the Messenger of Allah, may Allah bless him and grant him peace, as a safe-conduct for Safwan ibn Umayya, and the Messenger of Allah, may Allah bless him and grant him peace, called him to Islam and asked for him to come to him and if he was pleased with the matter to accept it. If not he would have a respite for two months.

When Safwan came to the Messenger of Allah, may Allah bless him and grant him peace, with his cloak, he called out to him over the heads of the people, "Muhammad! Wahb ibn Umayr brought me your cloak and claimed that you had summoned me to come to you and if I was pleased with the matter, I should accept it and if not, you would give me a respite for two months. "The Messenger of Allah, may Allah bless him and grant him peace, said, "Come down, Abu Wahb." He said, "No, by Allah! I will not come down until you make it clear to me." The Messenger of Allah, may Allah bless him and grant him peace, said, "You have a respite of four months." The Messenger of Allah, may Allah bless him and grant him peace, went out toward Hawazin at Hunayn. He sent to Safwan ibn Umayya to borrow some equipment and arms that he had. Safwan said, "Willingly or unwillingly?" He said, "Willingly." Therefore he lent him the equipment and arms which he had. Then Safwan went out with the Messenger of Allah, may Allah bless him and grant him peace, while he was still a kafir. He was present at the battles of Hunayn and at-Ta'if while he was still a kafir and his wife was a muslim. The Messenger of Allah, may Allah bless him and grant him peace, did not separate Safwan and his wife until he had become muslim, and his wife was settled with him by that marriage.

Book 28, Number 28.20.45:

Yahya related to me from Malik that Ibn Shihab said, "Between the Islam of Safwan and the Islam of his wife there was about one month."

Ibn Shihab said, "We have not heard about any woman doing hijra for Allah and His Messenger while her husband was a kafir abiding in the land of kufr, but that her hijra separated her and her husband unless her husband came in hijra before her period of idda had been completed."

Book 28, Number 28.20.46:

Yahya related to me from Malik from Ibn Shihab that Umm Hakim bint al-Harith ibn Hisham who was the wife of Ikrima ibn Abi Jahl became muslim on the day of the conquest of Makka, and her husband Ikrima fled from Islam as far as the Yemen. Umm Hakim set out after him until she came to him in the Yemen and she called him to Islam, and he became muslim. He went to the Messenger of Allah, may Allah bless him and grant him peace, in the year of the conquest. When the Messenger of Allah, may Allah bless him and grant him peace, saw him, he rushed to him in joy and did not bother to put on his cloak until he had made the pledge with him. They were confirmed in their marriage.

Malik said, "If a man becomes muslim before his wife, a separation occurs between them when he presents Islam to her and she does not become muslim, because Allah, the Blessed, the Exalted, said in His Book, 'Do not hold fast to the ties of women who are kafirun.' "

Section: The Wedding Feast

Book 28, Number 28.21.47:

Yahya related to me from Malik from Humayd at-Tawil from Anas ibn Malik that Abd ar-Rahman ibn Awf came to the Messenger of Allah, may Allah bless him and grant him peace, and he had a traceof yellow on him. The Messenger of Allah, may Allah bless him and grant him peace, asked about it. He told him that he had just been married. The Messenger of Allah, may Allah bless him and grant him peace, said, "How much did you hand over to her?" He said, "The weight of a date pit in gold." The Messenger of Allah, may Allah bless him and grant him peace, said to him, "Hold a feast, even if it is only with a sheep.

Book 28, Number 28.21.48:

Yahya related to me from Malik that Yahya ibn Said said, "I have heard that the Messenger of Allah, may Allah bless him and grant him peace, held a wedding feast in which there was neither meat nor bread."

Book 28, Number 28.21.49:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you are invited to a wedding feast, you must go to it."

Book 28, Number 28.21.50:

Yahya related to me from Malik from Ibr. Shihab from al-Araj that Abu Hurayra said, "The worst food is the food of a wedding feast to which the rich are invited and the poor are left out. If anyone rejects an invitation, he has rebelled against Allah and His Messenger."

Book 28, Number 28.21.51:

Yahya related to me from Malik that Ishaq ibn Abdullah ibn Abi Talha heard Anas ibn Malik say that a certain tailor invited the Messenger of Allah, may Allah bless him and grant him peace, to eat some food which he had prepared.

Anas said, "I went with the Messenger of Allah, may Allah bless him and grant him peace, to eat the food. He served barley bread and a soup with pumpkin in it. I saw the Messenger of Allah, may Allah bless him and grant him peace, going after the pumpkin around the dish, so I have always liked pumpkin since that day."

Section: Marriage in General

Book 28, Number 28.22.52:

Yahya related to me from Malik from Zayd ibn Aslam that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you marry a woman or buy a slave-girl, take her by the forelock and ask for baraka. When you buy a camel, take the top of its hump, and seek refuge with Allah from Shaytan."

Book 28, Number 28.22.53:

Yahya related to me from Malik from Abu'z-Zubayr al-Makki that somebody asked a man for his sister in marriage and the man mentioned that she had committed fornication. Umar ibn al-Khattab heard about it and he beat the man or almost beat him, and said, "What did you mean by giving him such information?"

Book 28, Number 28.22.54:

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman that al-Qasim ibn Muhammad and Urwa ibn az-Zubayr said that a man who had four wives and then divorced one of them irrevocably, could marry straightaway if he wished, and he did not have to wait for the completion of her idda.

Book 28, Number 28.22.55:

Yahya related to me from Malik from Rabia ibn Abd ar-Rahman that al-Qasim ibn Muhammad and Urwa ibn az-Zubayr gave the same judgement to al-Walid ibn Abd al-Malik in the year of his arrival in Madina except that al-Qasim ibn Muhammad said that he divorced his wife on various occasions. (i.e. not at one time).

Book 28, Number 28.22.56:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab said, "There are three things in which there is no jest: marriage, divorce, and setting free."

Book 28, Number 28.22.57:

Yahya related to me from Malik from Ibn Shihab that Rafi ibn Khadij married the daughter of Muhammad ibn Maslama al-Ansari. She was with him until she grew older, and then he married a young girl and preferred the young girl to her. She begged him to divorce her, so he divorced her and then he gave her time until she had almost finished her idda period and then he returned and still preferred the young girl. She therefore asked him to divorce her. He divorced her once, and then returned to her, and still preferred the young girl, and she asked him to divorce her. He said, "What do you want? There is only one divorce left. If you like, continue and put up with what you see of preference, and if you like, I will separate from you." She said, "I will continue in spite of the preference." He kept her in spite of

that. Rafi did not see that he had done any wrong action when she remained with him in spite of preference.

[Translation of Malik's Muwatta, Book 29:](#)

Divorce

Section: The 'Irrevocable' Divorce

Book 29, Number 29.1.1:

Yahya related to me from Malik that he had heard that a man said to Abdullah ibn Abbas, "I have divorced my wife by saying I divorce you a hundred times. What do you think my situation is?" Ibn Abbas said to him, "She was divorced from you by three pronouncements, and by the ninety-seven, you have mocked the ayat of Allah."

Book 29, Number 29.1.2:

Yahya related to me from Malik that he had heard that a man came to Abdullah ibn Masud and said, "I have divorced my wife by saying I divorce you eight times." Ibn Masud said to him, "What have people told you?" He replied, "I have been told that I have to part absolutely from her." Ibn Masud said, "They have spoken the truth. A person who divorces as Allah has commanded, Allah makes it clear for him, and a person who obscures himself in error, we make stay by his error. So do not confuse yourselves and pull us into your confusion. It is as they have said."

Book 29, Number 29.1.3:

Yahya related to me from Malik from Yahya ibn Said from Abu Bakr ibn Hazm thatUmar ibn Abd al-Aziz had asked him what people said about the 'irrevocable' divorce, and Abu Bakr had replied that Aban ibn Uthman had clarified that it was declared only once. Umar ibn Abd al-Aziz said, "Even if divorce had to be declared a thousand times, the'irrevocable' would use them all up. A person who says, 'irrevocably' has cast the furthest limit."

Book 29, Number 29.1.4:

Yahya related to me from Malik from Ibn Shihab that Marwan ibn al-Hakam decided that if someone made three pronouncements of divorce, he had divorced his wife irrevocably.

Malik said, "That is what I like best of what I have heard on the subject."

29.2 Divorce by Euphemistic Statements

Book 29, Number 29.1.5:

Yahya related to me from Malik that he had heard that Umar ibn al-Khattab had heard in a letter from Iraq that a man said to his wife, "Your rein is on your withers (i.e. you have free rein)." Umar ibn al-Khattab wrote to his governor to order the man to come to him at Makka at the time of hajj. While Umar was doing tawaf around the House, a man met him and greeted him. Umar asked him who he was,

and he replied that he was the man that he had ordered to be brought to him. Umar said to him, "I ask you by the Lord of this building, what did you mean by your statement, 'Your rein is on your withers.'?" The man replied, "Had you made me swear by other than this place, I would not have told you the truth. I intended separation by that." Umar ibn al- Khattab said, "It is what you intended."

Book 29, Number 29.1.6:

Yahya related to me from Malik that he had heard that Ali ibn Abi Talib used to say that if a man said to his wife, "You are haram for me," it counted as three pronouncements of divorce.

Malik said, "That is the best of what I have heard on the subject."

Book 29, Number 29.1.7:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said that statements like "I cut myself off from you",or"You are abandoned", were considered as three pronouncements of divorce.

Malik said that any strong statements such as these or others were considered as three pronouncements of divorce for a woman whose marriage had been consummated. In the case of a woman whose marriage had not been consummated, the man was asked to make an oath on his deen, as to whether he had intended one or three pronouncements of divorce. If he had intended one pronouncement, he was asked to make an oath by Allah to confirm it, and he became a suitor among other suitors, because a woman whose marriage had been consummated, required three pronouncements of divorce to make her inaccessible for the husband, whilst only one pronouncement was needed to make a woman whose marriage had not been consummated inaccessible.

Malik added, "That is the best of what I have heard about the matter."

Book 29, Number 29.1.8:

Yahya related to me from Malik from Yahya ibn Said from al-Qasim ibn Muhammad that a certain man had taken a slave-girl belonging to somebody else as a wife. He said to her people, "She is your concern," and people considered that to be one pronouncement of divorce.

Book 29, Number 29.1.9:

Yahya related to me from Malik that he heard Ibn Shihab say that if a man said to his wife, "You are free of me, and I am free of you, " it counted as three pronouncements of divorce as if it were an 'irrevocable' divorce.

Malik said that if a man made any strong statement such as these to his wife, it counted as three pronouncements of divorce for a woman whose marriage had been consummated, or it was written as one of three for a woman whose marriage had not been consummated, whichever the man wished. If he said he intended only one divorce he swore to it and he became one of the suitors because, whereas a woman whose marriage had been consummated was made inaccessible by three pronouncements of divorce, the woman whose marriage had not been consummated was made inaccessible by only one pronouncement.

Malik said, "That is the best of what I have heard."

Section: What is Clear about Giving Wives Right of Divorce

Book 29, Number 29.2.10:

Yahya related to me from Malik that he had heard that a man came to Abdullah ibn Umar, and said, "Abu Abd ar-Rahman! I placed the command of my wife in her hand, and she divorced herself, what do you think?" Abdullah ibn Umar said, "I think that it is as she said." The man said, "Don't do it, Abu Abd ar-Rahman!" Ibn Umar said, "You did it, it has nothing to do with me."

Book 29, Number 29.2.11:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "When a man gives a woman command over herself, then the result is as she decides unless he denies it and says that he only meant to give her one divorce and he swears to it - then he has access to her while she is in her idda."

Section: Circumstances in Which only One Pronouncement of Divorce Permitted in Giving Wives Right of Divorce

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Book 29, Number 29.3.12:

Yahya related to me from Malik from Said ibn Sulayman ibn Zayd ibn Thabit that Kharija ibn Zayd ibn Thabit told him that he was sitting with Zayd ibn Thabit when Muhammad ibn Abi Atiq came to him with his eyes brimming with tears. Zayd asked him what the matter was. He said, "I gave my wife command of herself, and she separated from me." Zayd said to him, "What made you do that?" He said, "The Decree." Zayd said, "Return to her if you wish for it is only one pronouncement, and you have access to her."

Book 29, Number 29.3.13:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim from his father that a man of Thaqif gave his wife command over herself, and she said, "You are divorced." He was silent. She said, "You are divorced." He said, "May a stone be in your mouth." She said, "You are divorced." He said, "May a stone be in your mouth." They argued and went to Marwan ibn al-Hakam. He took an oath that he had only given her control over one pronouncement, and then she returned to him.

Malik said that Abd ar-Rahman declared that this decision had amazed al-Qasim, who thought it the best that he had heard on the subject.

Malik added, "That is also the best of what I have heard on the subject."

Section: What is Not Clear in Giving Wives Right of Divorce

Book 29, Number 29.4.14:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim from his father that A'isha, umm al-muminin, proposed to Qurayba bint Abi Umayya on behalf of Abd ar-Rahman ibn Abi Bakr. They married her to him and her people found fault with Abd ar-Rahman and said, "We only gave in marriage because of A'isha."

A'isha therefore sent for Abd ar-Rahman and told him about it. He gave Qurayba authority over herself and she chose her husband and so there was no divorce.

Book 29, Number 29.4.15:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim from his father that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, gave Hafsa bint Abd arRahman in marriage to al-Mundhir ibn az-Zubayr while Abd ar-Rahman was away in Syria. When Abd ar-Rahman arrived, he said, "Shall someone like me have this done to him? Am I the kind of man to have something done to him without his consent?" A'isha spoke to al-Mundhir ibn az-Zubayr, and al-Mundhir said, "It is in the hands of Abd ar-Rahman." Abd ar-Rahman said, "I won't oppose something that you have already completed." Hafsa was confirmed with al-Mundhir, and there was no divorce.

Book 29, Number 29.4.16:

Yahya related to me from Malik that he had heard that Abdullah ibn Umar and Abu Hurayra were asked about a man who gave his wife power over herself, and she returned it to him without doing anything with it. They said that there was no divorce. (i.e. The man's giving his wife power over herself was not interpreted as a desire for divorce on his part.)

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab said, "If a man gives his wife authority over herself, and she does not separate from him and remains with him, there is no divorce."

Malik said that a woman whose husband gave her power over herself and they separated while she was unwilling, had no power to revoke the divorce. She only had power over herself as long as they remained together.

Section: Annulment of Marriage by Husband's Vow to Refrain from Intercourse (Ila)

Book 29, Number 29.5.17:

Yahya related to me from Malik from Jafar ibn Muhammad from his father that Ali ibn Abi Talib said, "When a man takes a vow to abstain from intercourse, divorce does not occur immediately. If four months pass, he must declare his intent and either he is divorced or he revokes his vow . "

Malik said, "That is what is done among us."

Book 29, Number 29.5.18:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "When a man makes a vow to abstain from intercourse with his wife and four months have passed he must declare his intent and either he is divorced or he revokes his vow. Divorce does not occur until four months have passed and he continues to abstain."

Yahya related to me from Malik from Ibn Shihab that Said al-Musayyab and Abu Bakr ibn Abd ar-Rahman said about a man who made a vow to abstain from intercourse with his wife, "If four months pass it is a divorce. The husband can go back to his wife as long as she is in her idda."

Book 29, Number 29.5.19:

Yahya related to me from Malik that he had heard that Marwan ibn al-Hakam decided about a man who had made a vow to abstain from intercourse with his wife, that when four months had passed, it was a divorce and he could return to her as long as she was in her idda.

Malik added, "That was also the opinion of Ibn Shihab."

Malik said that if a man made a vow to abstain from intercourse with his wife and at the end of four months he declared his intent to continue to abstain, he was divorced. He could go back to his wife, but if he did not have intercourse with her before the end of her idda, he had no access to her and he could not go back to her unless he had an excuse - illness, imprisonment, or a similar excuse. His return to her maintained her as his wife. If her idda passed and then he married her after that and did not have intercourse with her until four months had passed and he declared his intent to continue to abstain, divorce was applied to him by the first vow. If four months passed, and he had not returned to her, he had no idda against her nor access because he had married her and then divorced her before touching her.

Malik said that a man who made a vow to abstain from intercourse with his wife and continued to abstain after four months and so divorced her, but then returned and did not touch her and four months were completed before her idda was completed, did not have to declare his intent and divorce did not befall him. If he had intercourse with her before the end of her idda, he was entitled to her. If her idda passed before he had intercourse with her, he had no access to her. This is what Malik preferred of what he had heard on the subject.

Malik said that if a man made a vow to abstain from intercourse with his wife and then divorced her, and the four months of the vow were completed before completion of the idda of the divorce, it counted as two pronouncements of divorce. If he declared his intention to continue to abstain and the idda of the divorce finished before the four months the vow of abstention was not a divorce. That was because the four months had passed and she was not his on that day.

Malik said, "If someone makes a vow not to have intercourse with his wife for a day or a month and then waits until more than four months have passed, it is not ila. Ila only applies to someone who vows more than four months. As for the one who vows not to have intercourse with his wife for four months or less than that, I do not think that it is ila because when the term enters into it at which it stops, he comes out of his oath and he does not have to declare his intention."

Malik said, "If someone vows to his wife not to have intercourse with her until her child has been weaned, that is not ila. I have heard that Ali ibn Abi Talib was asked about that and he did not think that it was ila."

Section: The Ila (Vow of Abstention) of Slaves

Book 29, Number 29.6.19a:

Yahya related to me from Malik that he had asked Ibn Shihab about the ila of the slave. He said that it was like the ila of the free man, and it put an obligation on him. The ila of the slave was two months.

Section: Dhihar of Free Men

Book 29, Number 29.7.20:

Yahya related to me from Malik from Said ibn Amr ibn Sulaym az-Zuraqi that he asked al-Qasim ibn Muhammad about a man who made divorce conditional on his marrying a woman i.e. if he married her he would automatically divorce her. Al-Qasim ibn Muhammad said, "If a man marries a woman whom he has made as his mother's back, i.e. has made haram for him, Umar ibn al-Khattab ordered him not to go near her if he married her until he had done the kaffara for pronouncing dhihar."

Book 29, Number 29.7.21:

Yahya related to me from Malik that he had heard that a man asked al-Qasim ibn Muhammad and Sulayman ibn Yasar about a man who pronounced dhihar from his wife before he had married her. They said, "If he marries her, he must not touch her until he has done the kaffara for pronouncing dhihar."

Book 29, Number 29.7.22:

Yahya related to me from Malik from Hisham ibn Urwa that his father said that a man who pronounced a dhihar from his four wives in one statement, had only to do one kaffara. Yahya related the same as that to me from Malik from Rabia ibn Abi Abd ar-Rahman.

Malik said, "That is what is done among us. Allah, the Exalted said about the kaffara for pronouncing dhihar, 'It is to free a slave before they touch one another. If he does not find the means to do that, then fasting for two consecutive months before they touch one another. If he cannot do that, it is to feed sixty poor people. ' " (Sura 58 ayats 4,5).

Malik said that a man who pronounced dhihar from his wife on various occasions had only to do one kaffara. If he pronounced dhihar, and then did kaffara, and then pronounced dhihar after he had done the kaffara, he had to do kaffara again.

Malik said, "Some one who pronounces dhihar from his wife and then has intercourse with her before he has done kaffara, only has to do one kaffara. He must abstain from her until he does kaffara and ask forgiveness of Allah. That is the best of what I have heard. "

Malik said, "It is the same with dhihar using any prohibited relations of fosterage and ancestry."

Malik said, "Women have no dhihar."

Malik said that he had heard that the commentary on the word of Allah, the Blessed, the Exalted, "Those of you who pronounce the dhihar about their wives, and then retract what they have said," (Sura 56 ayat 3), was that a man pronounced dhihar on his wife and then decided to keep her and have intercourse with her. If he decided on that, he must do kaffara. If he divorced her and did not decide to retract his dhihar of her and to keep her and have intercourse with her, there would be no kaffara incumbent on him.

Maliksaid, "If he marries her after that, he does not touch her until he has completed

the kaffara of pronouncing dhihar."

Malik said that if a man who pronounced dhihar from his slave-girl wanted to have intercourse with her, he had to do the kaffara of the dhihar before he could sleep with her.

Malik said, "There is no ila in a man's dhihar unless it is evident that he does not intend to retract his dhihar."

Book 29, Number 29.7.23:

Yahya related to me from Malik from Hisham ibn Urwa that he heard a man ask Urwa ibn az-Zubayr about a man who said to his wife, "Any woman I marry along with you as long as you live will be like my mother's back to me." Urwa ibn az-Zubayr said, "The freeing of slaves is enough to release him from that."

Section: Dhihar of Slaves

Book 29, Number 29.8.24:

ahya related to me from Malik that he asked Ibn Shihab about the dhihar of a slave. He said, "It is like the dhihar of a free man."

Malik said, "He meant that the same conditions were applied in both cases."

Malik said, "The dhihar of the slave is incumbent on him, and the fasting of the slave in the dhihar is two months. "

Malik said that there was no ila for a slave who pronounced a dhihar from his wife. That was because if he were to fast the kaffara for pronouncing a dhihar, the divorce of the ila would come to him before he had finished the fast.

Section: The Option (of Slave-Girls Married to Slaves when Freed)

Book 29, Number 29.9.25:

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman from al-Qasim ibn Muhammad that A'isha umm al-muminin, said, "There were three sunnas established in connection with Barira: firstly was that when she was set free she was given her choice about her husband, secondly, the Messenger of Allah, may Allah bless him and grant him peace, said about her, 'The right of inheritance belongs to the person who has set a person free,' thirdly, the Messenger of Allah, may Allah bless him and grant him peace, came in and there was a pot with meat on the boil. Bread and condiments were brought to him from the stock of the house. The Messenger of Allah, may Allah bless him and grant him peace, said, 'Didn't I see a pot with meat in it?' They said, 'Yes, Messenger of Allah. That is meat which was given as sadaqa for Barira, and you do not eat sadaqa.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'It is sadaqa for her, and it is a gift for us.' "

Book 29, Number 29.9.26:

ahya related to me from Malik from Nafi that Abdullah ibn Umar said that a female slave who was the wife of a slave and then was set free, had the right of choice as long as he did not have intercourse with her.

Malik said, "If her husband has intercourse with her and she claims that she did not know, she still has the right of choice. If she is suspect and one does not believe her claim of ignorance, then she has no choice after he has had intercourse with her."

Book 29, Number 29.9.27:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr that a mawla of the tribe of Banu Adi called Zabra told him that she had been the wife of a slave when she was a slave-girl. Then she was set free and she sent a message to Hafsa, the wife of the Prophet, may Allah bless him and grant him peace. Hafsa called her and said, "I will tell you something., but I would prefer that you did not act upon it. You have authority over yourself as long as your husband does not have intercourse with you. If he has intercourse with you, you have no authority at all." Therefore she pronounced her divorce from him three times.

Book 29, Number 29.9.28:

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab said that if a man married a woman, and he was insane or had a physical defect, she had the right of choice. If she wished she could stay, and if she wished she could separate from him.

Book 29, Number 29.9.29:

Malik said that if a slave-girl, who was the wife of a slave, was set free before he had consummated the marriage, and she chose herself, then she had no bride-price and it was a pronouncement of divorce. That was what was done among them.

Book 29, Number 29.9.30:

Yahya related to me that Malik heard Ibn Shihab say, "When a man gives his wife the right of choice, and she chooses him, that is not divorce."

Malik added, "That is the best of what I have heard."

Malik said that if a woman who had been given the right of choice by her husband chose herself, she was divorced trebly. If her husband said, "But I only gave her the right of choice in one," he had none of that. That was the best of what he had heard.

Malik said, "If the man gives his wife the right of choice and she says, 'I accept one', and he says, 'I did not mean that, I have given the right of choice in all three together,' then if she only accepts one, she remains with him in her marriage, and that is not separation if Allah, the Exalted wills."

Section: Separating from Wives for Compensation

Book 29, Number 29.10.31:

Yahya related. to me from Malik from Yahya ibn Said that Amra bint Abd ar-Rahman told him from Habiba bint Sahl al-Ansari that she had been the wife of Thabit ibn Qays ibn Shammas. The Messenger of Allah, may Allah bless him and grant him peace, went out for the dawn prayer, and found Habiba bint Sahl at his door in the darkness. The Messenger of Allah, may Allah bless him and grant him peace, said to her, "Who is this?" She said, "I am Habiba bint Sahl, Messenger of

Allah." He said, "What do you want?" She said, "That Thabit ibn Qays and I separate." When her husband, Thabit ibn Qays came, the Messenger of Allah, may Allah bless him and grant him peace, said to him, "This is Habiba bint Sahl. She mentioned what Allah willed that she mention." Habiba said, "Messenger of Allah, all that he has given me is with me!" The Messenger of Allah, may Allah bless him and grant him peace, said to Thabit ibn Qays, "Take it from her," and he took it from her, and she stayed in the house of her family.

Book 29, Number 29.10.32:

Yahya related to me from Malik from Nafi from a mawla of Safiyya bint Abi Ubayd that she gave all that she possessed to her husband as compensation for her divorce from him, and Abdullah ibn Umar did not disapprove of that.

Malik said that divorce was ratified for a woman who ransomed herself from her husband, when it was known that her husband was detrimental to her and was oppressive for her, and it was known that he wronged her, and he had to return her property to her. Malik added, "This is what I have heard, and it is what is done among us."

Malik said, "There is no harm if a woman ransoms herself from her husband for more than he gave her."

Section: Divorce of Men who Divorce for Compensation

Book 29, Number 29.11.33:

Yahya related to me from Malik from Nafi that Rubayyi bint Muawwidh ibn Afra came with her paternal uncle to Abdullah ibn Umar and told him that she had divorced her husband for a compensation in the time of Uthman ibn Affan, and he heard about it and did not disapprove. Abdullah ibn Umar said, "Her idda is the idda of a divorced woman."

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab and Sulayman ibn Yasar and Ibn Shihab all said that a woman who divorced for a compensation had the same idda as a divorced woman - three periods.

Malik said that a woman who ransomed herself could not return to her husband except by a new marriage. If someone married her and then separated from her before he had intercourse with her, there was no idda against her from the recent marriage, and she rested on her first idda.

Malik said, "That is the best that I have heard on the matter."

Malik said, "If, when a woman offers to compensate her husband, he divorces her straightaway, then that compensation is confirmed for him. If he makes no response, and then at a later date, does divorce her, he is not entitled to that compensation."

Section: Lian (Invoking Mutual Curses)

Book 29, Number 29.12.34:

Yahya related to me from Malik from Ibn Shihab that Sahl ibn Sad as-Saidi told him that Uwaymir al-Ajlani came to Asim ibn Adi al-Ansari and said to him,

"Asim! What do you think a man who finds another man with his wife should do? Should he kill him and then be killed himself, or what should .he do? Asim! ask the Messenger of Allah, may Allah bless him and grant him peace, about that for me." Asim asked the Messenger of Allah, may Allah bless him and grant him peace, about it. The Messenger of Allah, may Allah bless him and grant him peace, was revolted by the questions and reproved them until what he heard from the Messenger of Allah, may Allah bless him and grant him peace. was intolerable for Asim. When Asim returned to his people, Uwaymir came to him and said, " Asim! what did the Messenger of Allah, may Allah bless him and grant him peace, say to you?" Asim said to Uwaymir, "You didn't bring me any good. The Messenger of Allah, may Allah bless him and grant him peace, was revolted by the question which I asked him." Uwaymir said, "By Allah! I will not stop until I ask him about it!" Uwaymir stood up and went to the Messenger of Allah, may Allah bless him and grant him peace, in the middle of the people and said, "Messenger of Allah! What do you think a man who finds another man with his wife should do? Should he kill him and then be killed himself, or what should he do?" The Messenger of Allah, may Allah bless him and grant him peace, said, "Something has been sent down about you and your wife, so go and bring her."

Sahl continued, "They mutually cursed one another in the presence of the Messenger, may Allah bless him and grant him peace, and I was present with the people. When they finished cursing each other, Uwaymir said, 'I shall have lied about her, Messenger of Allah, if I keep her,' and pronounced the divorce three times before the Messenger of Allah, may Allah bless him and grant him peace, ordered him to do it."

Malik said that Ibn Shihab said, "That was how the sunna of a couple mutually cursing each other was established (lian)."

Book 29, Number 29.12.35:

Yahya related to me from Malik from Nafic from Abdullah ibn Umar that a man cursed his wife in the time of the Messenger of Allah, may Allah bless him and grant him peace, and disowned her child. The Messenger of Allah, may Allah bless him and grant him peace, separated them and gave the child to the woman.

Malik said, "Allah the Blessed, the Exalted, said, 'The testimony of men who accuse their wives but do not have any witnesses except themselves is to testify by Allah four times that he is being truthful, and a fifth time, that the curse of Allah will be upon him, if he should be a liar. She will avoid punishment if she testifies by Allah four times that he is a liar, and a fifth time, that the wrath of Allah shall be upon her, if he should be telling the truth. ' "(Sura 24 ayat 6).

Malik said, "The sunna with us is that those who curse each other are never to be remarried. If the man calls himself a liar, (i.e. takes back his accusation), he is flogged with the hadd-punishment, and the child is given to him, and his wife can never return to him. There is no doubt or dispute about this sunna among us. "

Malik said, "If a man separates from his wife by an irrevocable divorce by which he cannot return to her, and then he denies the paternity of the child she is carrying, whilst she claims that he is the father, and it is possible by the timing, that he be so, he must curse her, and the child is not recognised as his."

Malik said, "That is what is done among us, and it is what I have heard from the

people of knowledge."

Malik said that a man who accused his wife after he had divorced her trebly while she was pregnant, and he had at first accepted being the father but then claimed that he had seen her committing adultery before he separated from her, was flogged with the hadd-punishment, and did not curse her.

If he denied the paternity of her child after he had divorced her trebly, and he had not previously accepted it, then he cursed her.

Malik said, "This is what I have heard."

Malik said, "The slave is in the same position as the free man as regards making accusations and invoking mutual curses (lian). He acts in the lian as the free man acts although there is no hadd applied for slandering a female-slave."

Malik said, "The muslim slave-girl and the christian and jewish free woman also do lian when a free muslim marries one of them and has intercourse with her. That is because Allah - may He be blessed and Exalted, said in His Book, 'As for those who accuse their wives,' and they are their wives. This is what is done among us.

Malik said that a man who did the lian with his wife, and then stopped and called himself a liar after one or two oaths and he had not cursed himself in the fifth one, had to be flogged with the hadd-punishment, but they did not have to be separated.

Malik said that if a man divorced his wife and then after three months the woman said, "I am pregnant," and he denied paternity, then he had to do lian.

Malik said that the husband of a female slave who pronounced the lian on her and then bought her, was not to have intercourse with her, even if he owned her. The sunna which had been handed down about a couple who mutually cursed each other in the lian was that they were never to return to each other.

Malik said that when a man pronounced the lian against his wife before he had consummated the marriage, she only had half of the bride price.

Section: Inheritance of Children of Women against whom Lian has been Pronounced

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Book 29, Number 29.13.36:

Yaha related to me from Malik that he had heard that Urwa ibn az-Zubayr said that if the child of the woman against whom lian had been pronounced or the child of fornication, died, his mother inherited from him her right in the Book of Allah the Exalted, and his maternal half-brothers had their rights. The rest was inherited by the owners of his mother's wala' if she was a freed slave. If she was an ordinary free woman, she inherited her right, his maternal brothers inherited their rights, and the rest went to the muslims.

Malik said,"I heard the same as that from Sulayman ibn Yasar, and it is what I saw the people of knowledge in our city doing."

Section: Divorce of Virgins

Book 29, Number 29.14.37:

Yahya related to me from Malik from Ibn Shihab from Muhammad ibn Abd ar-Rahman ibn Thawban that Muhammad ibn Iyas ibn al-Bukayr said, "A man divorced his wife three times before he had consummated the marriage, and then it seemed good to him to marry her. Therefore, he wanted an opinion, and I went with him to ask Abdullah ibn Abbas and Abu Hurayra on his behalf about it, and they said, 'We do not think that you should marry her until she has married another husband.' He protested that his divorcing her had been only once. Ibn Abbas said, 'You threw away what you had of blessing.' "

Book 29, Number 29.14.38a:

Yahya related to me from Malik from Yahya ibn Said from Bukayr ibn Abdullah al-Ashajj from an-Numan ibn Abi Ayyash al Ansari from Ata ibn Yasar that a man came and asked Abdullah ibn Amr ibn al-As about a man who divorced his wife three times before he had had intercourse with her Ata said, "The divorce of the virgin is one. Abdullah ibn Amr ibn al-As said to me, 'You say one pronouncement separates her and three makes her haram until she has married another husband.' "

Book 29, Number 29.14.38b:

Yahya related to me from Malik from Yahya ibn Said that Bukayr ibn Abdullah al-Ashajj informed him that Muawiya ibn Abi Ayyash al-Ansari told him that he was sitting with Abdullah ibn az-Zubayr and Asim ibn Umar ibn al-Khattab when Muhammad ibn Iyas ibn al-Bukayr came up to them and said, "A man from the desert has divorced his wife three times before consummating the marriage, what do you think?" Abdullah ibn az-Zubayr said "This is something about which we have no statement. Go to Abdullah ibn Abbas and Abu Hurayra. I left them with A'isha. Ask them and then come and tell us." He went and asked them. Ibn Abbas said to Abu Hurayra, "Give an opinion, Abu Hurayra! A difficult one has come to you." Abu Hurayra said, "One pronouncement separates her and three makes her haram until she has married another husband." Ibn Abbas said the like of that.

Malik said, "That is what is done among us, and when a man marries a woman who has been married before, and he has not had intercourse with her, she is treated as a virgin - one pronouncement separates her and three make her haram until she has married another husband."

Section: Divorce of Sick Men

Book 29, Number 29.15.40:

Yahya related to me from Malik from Ibn Shihab that Talha ibn Abdullah ibn Awf said, and he knew that better than them, from Abu Salama ibn Abd ar-Rahman ibn Awf that Abd ar-Rahman ibn Awf divorced his wife irrevocably while he was terminally ill, and Uthman ibn Affan made her an heir after the end of her idda.

Book 29, Number 29.15.41:

Yahya related to me from Malik from Abdullah ibn al-Fadl from al-Araj that Uthman ibn Affan made the wives of ibn Mukmil inherit from him, and he had divorced them while he was terminally ill.

Book 29, Number 29.15.42:

Yahya related to me from Malik that he heard Rabia ibn Abi Abd ar-Rahman say, "I heard that the wife of Abd ar-Rahman ibn Awf asked him to divorce her. He said, 'When you have menstruated and are pure, then come to me.' She did not menstruate until Abd ar-Rahman ibn Awf was ill. When she was purified, she told him and he divorced her irrevocably or made a pronouncement of divorce which was all that he had left over her Abd arRahman ibn Awf was terminally ill at the time, so Uthman ibn Affan made her one of the heirs after the end of her idda."

Book 29, Number 29.15.43:

Yahya related to me from Malik from Yahya ibn Said that Muhammad ibn Yahya ibn Habban said, "My grandfather Habban had two wives, one from the Hashimites and one from the Ansars. He divorced the Ansariyya while she was nursing, and a year passed and he died and she had still not yet menstruated. She said, 'I inherit from him. I have not menstruated yet.' The wives quarrelled and went to Uthman ibn Affan. He decided that she did inherit, and the Hashimiyya rebuked Uthman. He said, 'This is the practice of the son of your paternal uncle. He pointed this out to us.' He meant Ali ibn Abi Talib."

Book 29, Number 29.15.44:

Yahya related to me from Malik that he had heard Ibn Shihab say, "When a man who is terminally ill divorces his wife three times, she inherits from him."

Malik said, "If he divorces her while he is terminally ill before he has consummated the marriage, she has half of the bride-price and inherits, and she does not have to do an idda. If he consummated the marriage, she has all the dowry and inherits. The virgin and the previously married woman are the same in this situation according to us."

Section: Compensation in Divorce

Book 29, Number 29.16.45:

Yahya related to me from Malik that he had heard that Abd ar-Rahman ibn Awf divorced his wife, and gave her compensation in the form of a slave-girl.

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "Every divorced woman has compensation except for the one who is divorced and is allocated a bride-price and has not been touched. She has half of what was allocated to her."

Book 29, Number 29.16.46:

Yahya related to me from Malik that Ibn Shihab said, "Every divorced woman has compensation."

Malik said, "I have also heard the same as that from al-Qasim ibn Muhammad."

Malik said, "There is no fixed limit among us as to how small or large the compensation is."

Section: The Divorce of the Slave

Book 29, Number 29.17.47:

Yahya related to me from Malik from Abu'z-Zinad from Sulayman ibn Yasar that Nufay, a mukatab of Umm Salama the wife of the Prophet, may Allah bless him and grant him peace, or her slave, had a free woman as a wife. He divorced her twice, and then he wanted to return to her. The wives of the Prophet, may Allah bless him and grant him peace, ordered him to go to Uthman ibn Affan to ask him about it. He found him at ad-Daraj with Zayd ibn Thabit. He asked them, and they both anticipated him and said, "She is haram for you. She is haram for you."

Book 29, Number 29.17.48:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab that Nufay, a mukatab of Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, divorced his free wife twice, so he asked Uthman ibn Affan for an opinion, and he said, "She is haram for you."

Book 29, Number 29.17.49:

Yahya related to me from Malik from Abdu Rabbih ibn Said from Muhammad ibn Ibrahim ibn al-Harith at-Taymi that Nufay, a mukatab of Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, asked Zayd ibn Thabit for an opinion. He said, "I have divorced my free wife twice." Zayd ibn Thabit said, "She is haram for you."

Book 29, Number 29.17.50:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "When the slave divorces his wife twice, she is haram for him until she has married another husband, whether she is free or a slave. The idda of a free woman is three menstrual periods, and the idda of a slave-girl is two periods.

Book 29, Number 29.17.51:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "If a man gives his slave permission to marry, the divorce is in the hand of the slave, and nobody else has any power over his divorce. Nothing is held against a man who takes the slave-girl of his male slave or the slave-girl of his female-slave."

Section: Maintenance of Slave-Girls Divorced when Pregnant

Book 29, Number 29.18.51a:

Malik said, "Neither a free man nor a slave who divorces a slave-girl nor a slave who divorces a free woman, in an irrevocable divorce, is obliged to pay maintenance even if she is pregnant, and he cannot return to her."

Malik said, "A free man is not obliged to pay for the suckling of his son when he is a slave of other people, nor is a slave obliged to spend his money for what his master owns except with the permission of his master."

Section: Idda of Women whose Husbands are Missing

Book 29, Number 29.19.52:

Yahya related to me from Malik from Yahya ibn Said from Said ibn al-Musayyab that Umar ibn al-Khattab said, "The woman who loses her husband and does not know where he is, waits for four years, then she does idda for four months, and then she is free to marry."

Malik said, "If she marries after her idda is over, regardless of whether the new husband has consummated the marriage or not, her first husband has no means of access to her."

Malik said, "That is what is done among us and if her husband reaches her before she has remarried, he is more entitled to her."

Malik said that he had seen people disapproving of someone who said that one of the people (of knowledge) attributed to Umar ibn al-Khattab that he said, "Her first husband chooses when he comes either her bride-price or his wife."

Malik said, "I have heard that Umar ibn al-Khattab, speaking about a woman whose husband divorced her while he was absent from her, and then he took her back and the news of his taking her back had not reached her, while the news of his divorcing her had, and so she had married again, said, 'Her first husband who divorced her has no means of access to her whether or not the new husband has consummated the marriage.' "

Malik said, "This is what I like the best of what I heard about the missing man."

Section: Idda of Divorce and Divorce of Menstruating Women

Book 29, Number 29.20.53:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar divorced his wife while she was menstruating in the time of the Messenger of Allah, may Allah bless him and grant him peace, Umar ibn al-Khattab asked the Messenger of Allah, may Allah bless him and grant him peace, about it. The Messenger of Allah, may Allah bless him and grant him peace, said, "Go and tell him to take her back and keep her until she is purified and then has a period and then is purified. Then if he wishes, he an keep her, and if he wishes he should divorce her before he has intercourse with her. That is the idda which Allah has commanded for women who are divorced."

Book 29, Number 29.20.54:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr from A'isha, umm al-muminin, that she took Hafsa ibn Abd ar-Rahman ibn Abi Bakr as-Siddiq into her house when she had entered the third period of her idda. Ibn Shihab said, "That was mentioned to Amra bint Abd ar-Rahman, and she said that Urwa had spoken the truth and people had argued with A'isha about it. They said that Allah, the Blessed, the Exalted, said in His Book, 'Three quru.' A'isha said, 'You spoke the truth. Do you know what quru are? Quru are times of becoming pure after menstruation .' "

Book 29, Number 29.20.55:

Yahya related to me from Malik that Ibn Shihab said that he heard Abu Bakr ibn Abd ar-Rahman say, "I have never seen any of our fuqaha who did not say that this

was what the statement of A'isha meant."

Book 29, Number 29.20.56:

Yahya related to me from Malik from Nafi and Zayd ibn Aslam from Sulayman ibn Yasar that al-Ahwas died in Syria when his wife had begun her third menstrual period after he had divorced her. Muawiya ibn Abi Sufyan wrote and asked Zayd ibn Thabit about that. Zayd wrote to him, "When she began her third period, she was free from him and he was free from her, and he does not inherit from her nor she from him."

Book 29, Number 29.20.57:

Yahya related to me from Malik that he had heard that Abu Bakr ibn Abd ar-Rahman and Sulayman ibn Yasar and Ibn Shihab used to say, "When the divorced woman enters the beginning of her third period, she is clearly separated from her husband and there is no inheritance between them and he has no access to her."

Book 29, Number 29.20.58:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "When a man divorces his wife and she begins her third period, she is free from him and he is free from her."

Malik said, "This is how things are done among us."

Book 29, Number 29.20.59:

Yahya related to me from Malik from al-Fudayl ibn Abi Abdullah, the mawla of al-Mahri that al-Qasim ibn Muhammad and Salim ibn Abdullah said, "When a woman is divorced and begins her third period, she is clearly separated from him and is free to marry again."

Book 29, Number 29.20.60:

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab and Ibn Shihab and Sulayman ibn Yasar all said, "The idda of the woman with a khul divorce is three periods."

Book 29, Number 29.20.61:

Yahya related to me from Malik that he heard Ibn Shihab say, "The idda of the divorced woman is reckoned by the menstrual cycles even if she is estranged ." (The reason the idda is normally reckoned by the menstrual cycle is to see whether the woman is pregnant or not.)

Book 29, Number 29.20.62:

Yahya related to me from Malik from Yahya ibn Said from a man of the Ansar that his wife asked him for a divorce, and he said to her, "When you have had your period, then tell me." When she had her period, she told him. He said, "When you are purified then tell me." When she was purified, she told him and he divorced her.

Malik said, "This is the best of what I have heard about it."

Section: Idda of Women in their Houses when Divorced in Them

Book 29, Number 29.21.63:

Yahya related to me from Malik thal Yahya ibn Said heard al-Qasim ibn Muhammad and Sulayman ibn Yasar both mention that Yahya ibn Said ibn al-As divorced the daughter of Abd ar-Rahman ibn al-Hakam irrevocably, so Abd ar-Rahman ibn al-Hakam took her away A'isha umm al-muminin sent to Marwan ibn al-Hakam who was the Amir of al-Madina at that time. She said, "Fear Allah and make him return the woman to her house." Marwan said in what Sulayman related, "Abd ar-Rahman has the upper hand over me." Marwan said in what al-Qasim related, "Hasn't the affair of Fatima bint Qays reached you?" A'isha said, "You are forced to mention the story of Fatima " Marwan said, "If you know that evil, whatever evil there was between those two is enough for you." (See hadith 67.)

Book 29, Number 29.21.64:

Yahya related to me from Malik from Nafi that the daughter of Said ibn Zayd ibn Amr ibn Nufayl was the wife of Abdullah ibn Umar ibn Uthman ibn Affan, and he divorced her irrevocably and she moved out. Abdullah ibn Umar rebuked her for that.

Book 29, Number 29.21.65:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar divorced one of his wives in the house of Hafsa, the wife of the Prophet, may Allah bless him and grant him peace, while he was on the way to the mosque. He went another route from behind the houses being averse to ask permission to enter until he returned to her.

Book 29, Number 29.21.66:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab was asked who was obliged to pay the rent for a woman whose husband divorced her while she was in a leased house. Said ibn al-Musayyab said, "Her husband is obliged to pay it." Someone asked, "what if her husband does not have it?" He said, "Then she must pay it." Someone asked, "And if she does not have it?" He said, "Then the Amir must pay it."

Section: Maintenance of Divorced Woman

Book 29, Number 29.22.67:

Yahya related to me from Malik from Abdullah ibn Yazid, the mawla of al-Aswad ibn Sufyan from Abu Salama ibn Abd ar-Rahman ibn Awf from Fatima bint Qays that Abu Amr ibn Hafs divorced her absolutely while he was away in Syria. His agent sent her some barley and she was displeased with it, saying, "By Allah, I don't expect anything from you." She went to the Messenger of Allah, may Allah bless him and grant him peace, and mentioned it to him. He said, "You have no maintenance." He then ordered her to spend her idda in the house of Umm Sharik. Then he said, "This is a woman whom my companions visit. Spend the idda in the

house of Ibn Umm Maktum. He is a blind man and you can undress at his home. When you are free to remarry, tell me."

She continued, "When I was free to remarry, I mentioned to him that Muawiya ibn Abi Sufyan and Abu Jahm ibn Hisham had asked for me in marriage. The Messenger of Allah, may Allah bless him and grant him peace, said, 'As for Abu Jahm, he never puts down his stick from his shoulder (i.e. he is always travelling), and as for Muawiya he is a poor man with no property. Marry Usama ibn Zayd.' I objected to him and he said, 'Marry Usama ibn Zayd,' so I married him, and Allah put good in it and I was content with him."

Book 29, Number 29.22.68:

Yahya related to me from Malik that he heard Ibn Shihab say, "The woman who is absolutely divorced does not leave her house until she is free to remarry. She has no maintenance unless she is pregnant. In that circumstance the husband spends on her until she gives birth."

Malik said, "This is what is done among us."

Section: Idda of Slave-Girls Divorced by Their Husbands

Book 29, Number 29.23.69:

Malik said, "What is done among us when a slave divorces a slave-girl when she is a slave and then she is set free, is that her idda is the idda of a slave-girl, and her being set free does not change her idda whether or not he can still return to her. Her idda is not altered."

Malik added, "The hadd-punishment which a slave incurs is the same as this. When he is freed after he has incurred but before the punishment has been executed, his hadd is the hadd of the slave."

Malik said, "When a free man divorces a slave-girl three times, her idda is two periods. When a slave divorces a free woman twice, her idda is three periods."

Malik said about a man who had a slave-girl as a wife, and he bought her and set her free, "Her idda is the idda of a slave-girl, i.e. two periods, as long as he has not had intercourse with her. If he has had intercourse with her after buying her and before he set her free, she only has to wait until one period has passed . "

Section: General Chapter on Idda of Divorce

Book 29, Number 29.24.70:

Yahya related to me from Malik from Yahya ibn Said and from Yazid ibn Abdullah ibn Qusayt al-Laythi that Said ibn al-Musayyab said, "Umar ibn al-Khattab said, 'If a woman is divorced and has one or two periods and then stops menstruating, she must wait nine months. If it is clear that she is pregnant, that is that. If not, she must do an idda of three months after the nine, and then she is free to marry.' "

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab said, "Divorce belongs to men, and women have the idda."

Book 29, Number 29.24.71:

Yahya related to me from Malik from Ibn Shihab that Said ibn al-Musayyab said, "The idda of the woman who bleeds constantly is a year."

Malik said, "What is done among us about a divorced woman whose periods stop when her husband divorces her is that she waits nine months. If she has not had a period in them, she has an idda of three months. If she has a period before the end of the three months, she accepts the period. If another nine months pass without her having a period, she does an idda of three months. If she has a second period before the end of those three months, she accepts the period. If nine months then pass without a period, she does an idda of three months. If she has a third period, the idda of the period is complete. If she does not have a period, she waits three months, and then she is free to marry. Her husband can return to her before she becomes free to marry unless he made her divorce irrevocable."

Malik said, "The sunna with us is that when a man divorces his wife and has the option to return to her, and she does part of her idda and then he returns to her and then parts from her before he has had intercourse with her, she does not add to what has passed of her idda. Her husband has wronged himself and erred if he returned to her and had no need of her."

Malik said, "What is done among us is that if a woman becomes a muslim while her husband is a kafir and then he becomes muslim, he is entitled to her as long as she is in her idda. If her idda is finished, he has no access to her. If he remarries her after the end of her idda, however, that is not counted as divorce. Islam removed her from him without divorce."

Section: The Two Arbiters

Book 29, Number 29.25.72:

Yahya related to me from Malik that he had heard that Ali ibn Abi Talib said about the two arbiters about whom Allah, the Exalted, said,"If you fear a breach between the two, appoint an arbiter from his people, and an arbiter from her people. If they desire to set things aright, Allah will make peace between them, surely Allah is Knowing, Aware," (Sura 4 ayat 35), that the separation and the joining were overseen by the two of them.

Malik said, "That is the best of what I have heard from the people of knowledge. Whatever the two arbiters say concerning separation or joining is taken into consideration "

Section: Oath of Men to Divorce while Not yet Married

Book 29, Number 29.26.73:

Yahya related to me from Malik that he had heard that Umar ibn al-Khattab, Abdullah ibn Umar, Abdullah ibn Masud, Salim ibn Abdullah, al-Qasim ibn Muhammad, Ibn Shihab,and Sulayman ibn Yasar all said, "If a man has vowed to divorce his wife before marrying her and then he breaks his vow, divorce is obligatory for him when he marries her."

Yahya related to me from Malik that he had heard that Abdullah ibn Masud said that there was nothing binding on someone who said, "Every woman I marry is divorced," if he did not name a specific tribe or woman.

Malik said, "That is the best of what I have heard."

Malik said about a man saying to his wife, "You are divorced, and every woman I marry is divorced," or that all his property would be sadaqa if he did not do such-and-such, and he broke his oath: "As for his wives, it is divorce as he said, and as for his statement, 'Every woman I marry is divorced', if he did not name a specific woman, tribe, or land, or such, it is not binding on him and he can marry as he wishes. As for his property, he gives a third of it away as sadaqa."

Section: Deadline of Men who do Not have Intercourse with Their Wives

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Book 29, Number 29.27.74:

Yahya related to me from Malik from Ibn Shihab that Said ibn al-Musayyab said, "If someone marries a woman and cannot have intercourse with her, there is a deadline of a year set for him to have intercourse with her. If he does not, they are separated."

Book 29, Number 29.27.754:

Yahya related to me from Malik that he had asked Ibn Shihab about whether the deadline was set from the day he had married her, or from the day she raised the question before the Sultan. He said. 'It is from the day she presents it before the Sultan.'

Malik said, "As for someone who has intercourse with his wife and then is prevented from intercourse with her, I have not heard that there is a deadline set for him or that they are separated."

Section: General Section on Divorce

Book 29, Number 29.28.76:

Yahya related to me from Malik that Ibn Shihab said, "I have heard that the Messenger of Allah, may Allah bless him and grant him peace, said to a man from Thaqif who had ten wives when he became muslim, 'Take four and separate from the rest.' "

Book 29, Number 29.28.77:

Yahya related to me from Malik that Ibn Shihab said that he had heard Said ibn al-Musayyab, Humayd ibn Abd ar-Rahman ibn Awf, Ubaydullah ibn Abdullah ibn Utba ibn Masud, and Sulayman ibn Yasarall say, that they had heard Abu Hurayra say that he had heard Umar ibn al-Khattab say, "If a woman is divorced by her husband once or twice, and he leaves her until she is free to marry and she marries another husband and he dies or divorces her, and then she marries her first husband, she is with him according to what remains of her divorce."

Malik said, "That is what is done among us and there is no dispute about it."

Book 29, Number 29.28.78:

Yahya related to me from Malik from Thabit ibn al-Ahnaf that he married an umm walad of Abd ar-Rahman ibn Zayd ibn al-Khattab. He said, "Abdullah ibn Abd

ar-Rahman ibn Zayd ibn al-Khattab summoned me and I went to him. I came in upon him and there were whips and two iron fetters placed there, and two of his slaves whom he had made to sit there. He said, 'Divorce her, or by He by whom one swears, I will do such-and-such to you!' I said, 'It is divorce a thousand times.' Then I left him and I saw Abdullah ibn Umar on the road to Makka and I told him about my situation. Abdullah ibn Umar was furious, and said, 'That is not divorce, and she is not haram for you, so return to your home.' I was still not at ease so I went to Abdullah ibn az-Zubayr who was the Amir of Makka at that time. I told him about my situation and what Abdullah ibn Umar had said to me. Abdullah ibn az-Zubayr said to me, 'She is not haram for you, so return to your home,' and he wrote to Jabir ibn al-Aswad az-Zuhra who was the Amir of Madina and ordered him to punish Abdullah ibn Abdar-Rahman and to have him leave me and my family alone. I went to Madina, and Safiyya, the wife of Abdullah ibn Umar fitted out my wife so that she could bring her to my house with the knowledge of Abdullah ibn Umar. Then I invited Abdullah ibn Umar on the day of my wedding to the wedding feast and he came."

Book 29, Number 29.28.79:

Yahya related to me from Malik that Abdullah ibn Dinar said, "I heard Abdullah ibn Umar recite from the Qur'an, 'Prophet! When you divorce women, divorce them at the beginning of their idda.'"

Malik said, "He meant by that, to make one pronouncement of divorce at the beginning of each period of purity."

Book 29, Number 29.28.80:

Yahya related to me from Malik from Hisham ibn Urwa that his father said, "It used to be that a man would divorce his wife and then return to her before her idda was over, and that was alright, even if he divorced her a thousand times. The man went to his wife and then divorced her and when the end of her idda was in sight, he took her back and then divorced her and said, 'No! By Allah, I will not go to you and you will never be able to marry again.' Allah, the Blessed, the Exalted, sent down, 'Divorce is twice, then honourable retention or setting free kindly.' People then turned towards divorce in a new light from that day whether or not they were divorced or not divorced."

Book 29, Number 29.28.81:

Yahya related to me from Malik from Thawr ibn Zayd ad-Dili that Allah, the Blessed, the Exalted, sent down about a man who divorced his wife and then returned to her while he had no need of her and did not mean to keep her so as to make the idda period long for her by that in order to do her harm, "Do not retain them by force, to transgress. Whoever does that has wronged himself." (Sura 2 ayat 231). Allah warns them by that ayat.

Book 29, Number 29.28.82:

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab and Sulayman ibn Yasar were asked about a man who divorced when he was drunk. They said, "When a drunk man divorces, his divorce is allowed. If he kills, he is killed for it."

Malik said, "That is what is done among us."

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab said, "If a man does not find the means to spend on his wife, they are to be separated . "

Malik said, "That is what I saw the people of knowledge in our city doing."

29.30 Idda of Widows when Pregnant

Section: Idda of Widows when Pregnant

Book 29, Number 29.29.83:

Yahya related to me from Malik from Abdu Rabbih ibn Said ibn Qays that Abu Salama ibn Abd ar-Rahman said that Abdullah ibn Abbas and Abu Hurayra were asked when a pregnant woman whose husband had died could remarry. Ibn Abbas said, "At the end of two periods." Abu Hurayra said, "When she gives birth, she is free to marry." Abu Salama ibn Abd ar-Rahman visited Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, and asked her about it Umm Salama said, "Subaya al-Aslamiya gave birth half a month after the death of her husband, and two men asked to marry her. One was young and the other was old. She preferred the young man and so the older man said, 'You are not free to marry yet.' Her family were away and he hoped that when her family came, they would give her to him. She went to the Messenger of Allah, may Allah bless him and grant him peace, and he said, 'You are free to marry, so marry whomever you wish.' "

Book 29, Number 29.29.84:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar was asked about a woman whose husband died while she was pregnant, and he said, "When she gives birth, she is free to marry." A man of the Ansar who was with him told him that Umar ibn al-Khattab had said, "Had she given birth while her husband was still on his bed, unburied, she would be free to marry."

Book 29, Number 29.29.85:

Yahya related to me from Malik from Hisham ibn 'Urwa from his father that al-Miswar ibn Makhrama told him that Subaya al-Aslamiya gave birth a few nights after the death of her husband. The Messenger of Allah, may Allah bless him and grant him peace, said to her, "You are free to marry, so marry whomever you wish."

Book 29, Number 29.29.86:

Yahya related to me from Malik from Yahya ibn Said from Sulayman ibn Yasar that Abdullah ibn Abbas and Abu Salama ibn Abd ar-Rahman ibn Awf differed on the question of a wornan who gave birth a few nights after the death of her husband. Abu Salama said, "When she gives birth to the child she is carrying, she is free to marry." Ibn Abbas said, "At the end of two periods." Abu Hurayra came and said, "I am with my nephew", meaning Abu Salama. They sent Kurayb, a mawla of Abdullah ibn Abbas to Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, to ask her about it. He came back and told them that she had said that Subaya al-Aslamiya had given birth a few nights after the death of her husband, and she had brought the matter to the Messenger of Allah, may Allah

bless him and grant him peace, and he had said, "You are free to marry, so marry whomever you wish."

Malik said, "This is how the people of knowledge here continue to act."

29.31 Widows Remaining in Their Houses until Free to Marry

Book 29, Number 29.29.87:

Yahya related to me from Malik from Said ibn Ishaq ibn Kab ibn Ujra from his paternal aunt, Zaynab bint Kab ibn Ujra that al-Furaya bint Malik ibn Sinan, the sister of Abu Said al-Khudri, informed her that she went to the Messenger of Allah, may Allah bless him and grant him peace, and asked to be able to return to her people among the Banu Khudra since her husband had gone out in search of some of his slaves who had run away and he had caught up with them near al-Qudum, (which is 6 miles from Madina), and they had killed him.

She said, "I asked the Messenger of Allah, may Allah bless him and grant him peace, if I could return to my people in the Banu Khudra, as my husband had not left me in a dwelling which belonged to him, and had left me no maintenance. The Messenger of Allah, may Allah bless him and grant him peace, said,'Yes.' So I left. When I was in the courtyard, the Messenger of Allah, may Allah bless him and grant him peace, called me or summoned me, and I answered him. He said, 'What did you say?' I repeated the story about my husband. He said, 'Stay in your house until what is written reaches its term.' I did the idda in the house for four months and ten days."

She added, "When Uthman ibn Affan sent for me, I told him that, and he followed it and made decisions by it."

Book 29, Number 29.29.88:

Yahya related to me from Malik from Humayd ibn Qays al-Makki from Amr ibn Shuayb from Said ibn al-Musayyab that Umar ibn al-Khattab sent back widows from the desert and prevented them from doing the hajj.

Yahya related to me from Malik from Yahya ibn Saqd that he had heard that as-Sa'ib ibn Khabbab died, and his wife went to Abdullah ibn Umar and mentioned to him that her husband had died and mentioned some land which they had at Qanah, (a district on the outskirts of Madina), and asked him if it would be alright for her to stay overnight there. He forbade her to do so. So, she went out before dawn from Madina and spent the whole day on their land, but when evening came, she spent the night in her house.

Book 29, Number 29.29.89:

Yahya related to me from Malik that Hisham ibn Urwa said about a Bedouin woman whose husband died, that she was to stay where her people stayed.

Malik said, "This is what is done among us."

Book 29, Number 29.29.90:

Yahya related to me from Malik from Nafi that Abdullan ibn Umar said, "The only place a woman whose husband has died and a woman who is absolutely divorced

can spend the night is in their houses."

Section: Idda of an Umm Walad when Her Master Dies

Book 29, Number 29.30.91:

Yahya related to me from Malik that Yahya ibn Said said that he had heard al-Qasim ibn Muhammad say that Zayd ibn Abd al-Malik separated some men and their wives who were slave-girls who had borne children to men who had died, because they had married them after one or two menstrual periods. He separated them until they had done an idda of four months and ten days. Al-Qasim ibn Muhammad said, "Glory be to Allah! Allah says in His Book, 'Those of you who die, leaving wives, they are not wives.' "

Book 29, Number 29.30.92:

Malik related to me from Nafi that Abdullah ibn Umar said, "The idda of an umm walad when her master dies is one menstrual period."

Yahya related to me from Malik from Yahya ibn Said that al-Qasim ibn Muhammad said, "The idda of an umm walad when her master dies is one menstrual period."

Malik said, "This is what is done among us."

Malik added, "If she does not have a menstrual period, her idda is three months."

Section: Idda of Slave-Girls whose Master or Husband Dies

Book 29, Number 29.31.93:

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab and Sulayman ibn Yasar said, "The idda of a slave-girl when her husband dies is two months and five days."

Book 29, Number 29.31.94:

Yahya related to me the like of that from Malik from Ibn Shihab.

Malik said, about a slave who divorced a slave-girl but did not make it absolute, "He can return to her. If he then dies while she is still in the idda from her divorce, she does the idda of a slave-girl whose husband dies, and it is two months and five days. If she has been set free and he can return to her, and she does not choose to separate after she has been set free, and he dies while she is in the idda from the divorce, she does the idda of a free woman whose husband has died, four months and ten days. That is because the idda of widowhood befell her while she was free, so her idda is the idda of a free woman."

Malik said, "That is what is done among us."

Section: Coitus Interruptus

Book 29, Number 29.32.95:

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman from

Muhammad ibn Yahya ibn Habban that Ibn Muhayriz said, "I went into the mosque and saw Abu Said al-Khudri and so I sat by him and asked him about coitus interruptus. Abu Said al-Khudri said, 'We went out with the Messenger of Allah, may Allah bless him and grant him peace, on the expedition to the Banu al-Mustaliq. We took some Arabs prisoner, and we desired the women as celibacy was hard for us. We wanted the ransom, so we wanted to practise coitus interruptus. We said, 'Shall we practise coitus interruptus while the Messenger of Allah, may Allah bless him and grant him peace, is among us before we ask him?' We asked him about that and he said, 'You don't have to not do it. There is no self which is to come into existence up to the Day of Rising but that it will come into existence.' "

Book 29, Number 29.32.96:

Yahya related to me from Malik from Abu'n-Nadr, the mawla of Umar ibn Ubaydullah from Amir ibn Sad ibn Abi Waqqas from his father that he used to practise coitus interruptus.

Book 29, Number 29.32.97:

Yahya related to me from Malik from Abu'n-Nadr, the mawla of Umar ibn Ubaydullah from Ibn Aflah, the mawla of Abu Ayyub al-Ansari from an umm walad of Abu Ayyubal-Ansari that he practised coitus interruptus.

Book 29, Number 29.32.98:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar did not practise coitus interruptus and thought that it was disapproved.

Book 29, Number 29.32.99:

Yahya related to me from Malik from Damra ibn Said al-Mazini from al-Hajjaj ibn Amr ibn Ghaziya that he was sitting with Zayd ibn Thabit when Ibn Fahd came to him. He was from the Yemen. He said, "Abu Said! I have slave-girls. None of the wives in my keep are more pleasing to me than them, and not all of them please me so much that I want a child by them, shall I then practise coitus interruptus?" Zayd ibn Thabit said, "Give an opinion, Hajjaj!" "I said, 'May Allah forgive you! We sit with you in order to learn from you!' He said, 'Give an opinion! 'I said, 'She is your field, if you wish, water it, and if you wish, leave it thirsty. I heard that from Zayd.' Zayd said, 'He has spoken the truth.' "

Book 29, Number 29.32.100:

Yahya related to me from Malik from Humayd ibn Qays al-Makki that a man called Dhafif said that Ibn Abbas was asked about coitus interruptus. He called a slave-girl of his and said, "Tell them." She was embarrassed. He said, "It is alright, and I do it myself."

Malik said, "A man does not practise coitus interruptus with a free woman unless she gives her permission. There is no harm in practising coitus interruptus with a slave-girl without her permission. Someone who has someone else's slave-girl as a wife, does not practise coitus interruptus with her unless her people give him permission."

Section: Limit of Abstaining from Adornment in Mourning

Book 29, Number 29.33.101:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Muhammad ibn Amr ibn Hazm from Humayd ibn Nafi that Zaynab bint Abi Salama related these three traditions to him. Zaynab said, "I visited Umm Habiba, the wife of the Prophet, may Allah bless him and grant him peace, when her father Abu Sufyan ibn Harb had died. Umm Habiba called for a yellowy perfume perhaps khaluq or something else. She rubbed the perfume first on a slave-girl and she then wiped it on the sides of her face and said, 'By Allah! I have no need of perfume but I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'It is not halal for a woman who trusts in Allah and the Last Day to abstain from adornment in mourning for someone who has died, for more than three nights, except for four months and ten days for a husband.' "

Book 29, Number 29.33.102:

Zaynab said, "I went to the house of Zaynab bint Jahsh, the wife of the Prophet, may Allah bless him and grant him peace, when her brother had died. She called for perfume and put some on and said, 'By Allah! I have no need of perfume, but I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'It is not halal for a woman who trusts in Allah and the Last Day to abstain from adornment in mourning for someone who has died for more than three nights, except for four months and ten days for a husband.' "

Book 29, Number 29.33.103:

Zaynab said, "I heard my mother, Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, say that a woman came to the Messenger of Allah, may Allah bless him and grant him peace, and said, 'Messenger of Allah! My daughter's husband died, and her eyes are troubling her, can she put kohl on them?' The Messenger of Allah, may Allah bless him and grant him peace, said, 'No' two or three times. Then he said, 'It is only four months and ten days. In the Jahiliyya, none of you threw away the piece of dung until a year had passed.' "

Humayd ibn Nafi said, "I asked Zaynab to explain what 'throwing away the piece of dung at the end of a year' meant. Zaynab said, 'In the Jahiliyya when a woman's husband died, she went into a small tent and dressed in the worst of clothes. She did not touch perfume or anything until a year had passed. Then she was brought an animal - a donkey, a sheep, or a bird, and she would break her idda with it, by rubbing her body against it (taftaddu). Rarely did she break her idda with anything (by rubbing herself against it) but that it died. Then she would come out and would be given a piece of dung. She would throw it away and then return to whatever she wished of perfumes or whatever.' "

Malik explained, 'Taftaddu' means to wipe her skin with it in the same way as with a healing charm."

Book 29, Number 29.33.104:

Yahya related to me from Malik from Nafi from Safiyya bint Abi Ubayd from A'isha and Hafsa, the wives of the Prophet, may Allah bless him and grant him

peace, that the Messenger of Allah, may Allah bless him and grant him peace, said, "It is not halal for a woman in mourning for someone who has died, if she trusts in Allah and the Last Day, to abstain from adornment for more than three nights, except for a husband."

Book 29, Number 29.33.105:

Yahya related to me from Malik that he had heard that Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, said to a woman in mourning for her husband whose eyes were troubling her and the pain had become very strong, "Apply jala kohl at night and wipe it off in the day."

Book 29, Number 29.33.106:

Yahya related to me from Malik that he had heard that Salim ibn Abdullah and Sulayman ibn Yasar said that if a woman whose husband had died feared that an inflammation of her eyes might affect her sight or that some complaint might befall her, she should put kohl on and seek a remedy with kohl or some other cure even if it had perfume in it.

Malik said, "If there is a necessity, the deen of Allah is ease."

Book 29, Number 29.33.107:

Yahya related to me from Malik from Nafic that Saffiyya bint Abi Ubayd suffered from an eye-complaint while she was in mourning for her husband, Abdullah ibn Umar. She did not apply kohl until her eyes almost had ramas (a dry white secretion in the corners of the eye).

Malik said, "A woman whose husband has died should anoint her eyes with olive oil and sesame oil and the like of that since there is no perfume in it."

Malik said, "A woman in mourning for her husband should not put on any jewellery - rings, anklets, or such-like, neither should she dress in any sort of colourful, striped garment unless it is coarse. She should not wear any cloth dyed with anything except black, and she should only dress her hair with things like lotus-tree leaves which do not dye the hair."

Book 29, Number 29.33.108:

108 Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, visited Umm Salama while she was in mourning for Abu Salama and she had put aloes on her eyes. He said, "What is this, Umm Salama?" She said, "It is only aloes, Messenger of Allah." He said, "Put it on at night and wipe it off in the daytime."

Malik said, "The mourning of a young girl who has not yet had a menstrual period takes the same form as the mourning of one who has had a period. She avoids what a mature woman avoids if her husband dies."

Malik said, "A slave-girl mourns her husband when he dies for two months and five nights like her idda."

Malik said, "An umm walad does not have to mourn when her master dies, and a slave-girl does not have to mourn when her master dies. Mourning is for those with

husbands."

Book 29, Number 29.33.109:

Yahya related to me from Malik that he had heard that Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, said, "A mourning woman can rub her head with lotus leaves and olive oil."

Translation of Malik's Muwatta, Book 30:

Suckling

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Section: Suckling of the Young

Book 30, Number 30.1.1:

Yahya related to me from Malik from Abdullah ibn Abi Bakr from Amra bint Abd ar-Rahman that A'isha, umm al-muminin informed her that the Messenger of Allah, may Allah bless him and grant him peace, was with her and she heard the voice of a man asking permission to enter the room of Hafsa. A'isha said that she had said, "Messenger of Allah! There is a man asking permission to enter your house!" The Messenger of Allah, may Allah bless him and grant him peace, said, "I think it is so-and-so" (referring to a paternal uncle of Hafsa by suckling). A'isha said, "Messenger of Allah! If so-and-so were alive (referring to her paternal uncle by suckling) could he enter where I am?" The Messenger of Allah, may Allah bless him and grant him peace, said, "Yes. Suckling makes haram as birth makes haram."

Book 30, Number 30.1.2:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, umm al-muminin said, "My paternal uncle by suckling came to me and I refused to give him permission to enter until I had asked the Messenger of Allah, may Allah bless him and grant him peace, about it. The Messenger of Allah, may Allah bless him and grant him peace, came and I asked him about it. He said, 'He is your paternal uncle, so give him permission.' So I said, 'Messenger of Allah! The woman nursed me not the man.' He said, 'He is your paternal uncle, so let him enter.' "

A'isha said, "That was after the veil had been imposed on us."

A'isha added, "What is haram by birth is made haram by suckling."

Book 30, Number 30.1.3:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr that A'isha umm al-muminin told him that Aflah, the brother of Abu'l-Quays came and asked permission to visit her after the veil had been lowered, and he was her paternal uncle by suckling. She said, "I refusedto give him permission to enter. When the Messenger of Allah, may Allah bless him and grant him peace, came, I told him about what I had done, and he ordered me to give him permission to enter."

Book 30, Number 30.1.4:

Yahya related to me from Malik from Thawr ibn Zayd ad-Dili that Abdullah ibn Abbas said, "The milk which a child under two years old sucks, even if it is only one suck, makes the foster relatives haram."

Book 30, Number 30.1.5:

Yahya related to me from Malik from Ibn Shihab from Amr ibn ash-Sharid that Abdullah ibn Abbas was asked whether, if a man had two wives, and one of them nursed a slave-boy, and the other had nursed a slave-girl, could the slave-boy marry the slave-girl. He said, "No. The husband is the same."

Book 30, Number 30.1.6:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "There is no kinship by suckling except for a person who is nursed when he is small. There is no kinship by suckling over the age of two years."

Book 30, Number 30.1.7:

Yahya related to me from Malik from Nafi that Salim ibn Abdullah ibn Umar informed him that A'isha umm al-muminin sent him away while he was being nursed to her sister Umm Kulthum bint Abi Bakr as-Siddiq and said, "Suckle him ten times so that he can come in to see me."

Salim said, "Umm Kulthum nursed me three times and then fell ill, so that she only nursed me three times. I could not go in to see A'isha because Umm Kulthum did not finish for me the ten times."

Book 30, Number 30.1.8:

Yahya related to me from Malik from Nafi that Safiyya bint Abi Ubayd told him that Hafsa, umm al-muminin, sent Asim ibn Abdullah ibn Sad to her sister Fatima bint Umar ibn al-Khattab for her to suckle him ten times so that he could come in to see her. She did it, so he used to come in to see her.

Book 30, Number 30.1.9:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim that his father told him that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, admitted those whom her sisters and the daughters of her brother had nursed, and she did not admit those who were nursed by the wives of her brothers.

Book 30, Number 30.1.10:

Yahya related to me from Malik that Ibrahim ibn Uqba asked Said ibn al-Musayyab about suckling. Said said, "All that occurs in the first two years, even if it is only a drop, makes haram. Whatever is after two years, is only food that is eaten."

Ibrahim ibn Uqba said, "Then I asked Urwa ibn az-Zubayr and he told me the same as what Said ibn al-Musayyab said."

Book 30, Number 30.1.11:

Yahya related to me from Malik that Yahya ibn Said said that he heard Said ibn al-Musayyab say, "Suckling is only while the child is in the cradle. If not, it does not cause flesh and blood relations."

Yahya related to me from Malik from Ibn Shihab that he said, "Suckling however little or much, makes haram. Kinship by suckling makes men mahram."

Yahya said that he had heard Malik say, "Suckling, however little or much when it is in the first two years, makes haram. As for what is after the first two years, little or much, it does not make anything haram. It is like food."

Section: Suckling of Older People

Book 30, Number 30.2.12:

Yahya related to me from Malik from Ibn Shihab that he was asked about the suckling of an older person. He said, "Urwa ibn az-Zubayr informed me that Abu Hudhayfa ibn Utba ibn Rabia, one of the companions of the Messenger of Allah, may Allah bless him and grant him peace, who was present at Badr, adopted Salim (who is called Salim, the mawla of Abu Hudhayfa) as the Messenger of Allah, may Allah bless him and grant him peace, adopted Zayd ibn Haritha. He thought of him as his son, and Abu Hudhayfa married him to his brother's sister, Fatima bint al-Walid ibn Utba ibn Rabia, who was at that time among the first emigrants. She was one of the best unmarried women of the Quraysh. When Allah the Exalted sent down in His Book what He sent down about Zayd ibn Haritha, 'Call them after their true fathers. That is more equitable in the sight of Allah. If you do not know who their fathers were then they are your brothers in the deen and your mawali,' (Sura 33 ayat 5) people in this position were traced back to their fathers. When the father was not known, they were traced to their mawla.

"Sahla bint Suhayl who was the wife of Abu Hudhayfa, and one of the tribe of Amr ibn Luayy, came to the Messenger of Allah, may Allah bless him and grant him peace, and said, 'Messenger of Allah! We think of Salim as a son and he comes in to see me while I am uncovered. We only have one room, so what do you think about the situation?' The Messenger of Allah, may Allah bless him and grant him peace, said, 'Give him five drinks of your milk and he will be mahram by it.' She then saw him as a foster son. A'isha umm al-muminin took that as a precedent for whatever men she wanted to be able to come to see her. She ordered her sister, Umm Kulthum bint Abi Bakr as-Siddiq and the daughters of her brother to give milk to whichever men she wanted to be able to come in to see her. The rest of the wives of the Prophet, may Allah bless him and grant him peace, refused to let anyone come in to them by such nursing. They said, 'No! By Allah! We think that what the Messenger of Allah, may Allah bless him and grant him peace, ordered Sahla bint Suhayl to do was only an indulgence concerning the nursing of Salim alone. No! By Allah! No one will come in upon us by such nursing!'

"This is what the wives of the Prophet, may Allah bless him and grant him peace, thought about the suckling of an older person."

Book 30, Number 30.2.13:

Yahya related to me from Malik that Abdullah ibn Dinar said, "A man came to Abdullah ibn Umar when I waswith him at the place where judgments were given and asked him about the suckling of an older person. Abdullah ibn Umar replied, 'A man came to Umar ibn al-Khattab and said, 'I have a slave-girl and I used to have intercourse with her. My wife went to her and suckled her. When I went to the girl, my wife told me to watch out, because she had suckled her!' Umar told him to beat his wife and to go to his slave-girl because kinship by suckling was only by the suckling of the young.' "

Book 30, Number 30.2.14:

Yahya related to me from Malik from Yahya ibn Said that a man said to Abu Musa al-Ashari, "I drank some milk from my wife's breasts and it went into my stomach." Abu Musa said, "I can only but think that she is haram for you." Abdullah ibn Masud said, "Look at what opinion you are giving the man." Abu Musa said, "Then what do you say?" Abdullah ibn Masud said, "There is only kinship by suckling in the first two years."

Abu Musa said, "Do not ask me about anything while this learned man is among you."

Section: Suckling in General

Book 30, Number 30.3.15:

Yahya related to me from Malik from Abdullah ibn Dinar from Sulayman ibn Yasar and from Urwa ibn az-Zubayr from A'isha umm al-muminin, that the Messenger of Allah, may Allah bless him and grant him peace, said, " What is haram by birth is haram by suckling."

Book 30, Number 30.3.16:

Yahya related to me from Malik that Muhammad ibn Abd ar-Rahman ibn Nawfal said, "Urwa ibn az-Zubayr informed me from A'isha umm al-muminin that Judama bint Wahb al-Asadiyya informed her that she heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'I intended to prohibit ghila but I remembered that the Greeks and Persians do that without it causing any injury to their children.' "

Malik explained, "Ghila is that a man has intercourse with his wife while she is suckling."

Book 30, Number 30.3.17:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Hazm from Amra bint Abd ar-Rahman that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "Amongst what was sent down of the Qur'an was 'ten known sucklings make haram' - then it was abrogated by 'five known sucklings'. When the Messenger of Allah, may Allah bless him and grant him peace, died, it was what is now recited of the Qur'an."

Yahya said that Malik said, "One does not act on this."

Translation of Malik's Muwatta, Book 31:

Business Transactions

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Section: Non-Returnable Deposits

Book 31, Number 31.1.1:

Yahya related to me from Malik from a reliable source from Amr ibn Shuayb from his father from his father's father that the Messenger of Allah, may Allah bless him and grant him peace, forbade transactions in which nonrefundable deposits were paid.

Malik said, "That is, in our opinion, but Allah knows best, that for instance, a man buys a slave or slave-girl or rents an animal and then says to the person from whom he bought the slave or leased the animal, 'I will give you a dinar or a dirham or whatever on the condition that if I actually take the goods or ride what I have rented from you, then what I have given you already goes towards payment of the goods or hire of the animal. If I do not purchase the goods or hire the animal, then what I have given you is yours without liability on your part.' "

Malik said, "According to the way of doing things with us there is nothing wrong in bartering an arabic speaking merchant slave for abyssinian slaves or any other type that are not his equal in eloquence, trading, shrewdness, and know-how. There is nothing wrong in bartering one slave like this for two or more other slaves with a stated delay in the terms if he is clearly different. If there is no appreciable difference between the slaves, two should not be bartered for one with a stated delay in the terms even if their racial type is different."

Malik said, "There is nothing wrong in selling what has been bought in such a transaction before taking possession of all of it as long as you receive the price for it from some one other than the original owner."

Malik said, "An addition to the price must not be made for a foetus in the womb of its mother when she is sold because that is gharar (an uncertain transaction). It is not known whether the child will be male or female, good-looking or ugly, normal or handicapped, alive or dead. All these things will affect the price."

Malik said that in a transaction where a slave or slave-girl was bought for one hundred dinars with a stated credit period that if the seller regretted the sale there was nothing wrong in him asking the buyer to revoke it for ten dinars which he would pay him immediately or after a period and he would forgo his right to the hundred dinars which he was owed.

Malik said, "However, if the buyer regrets and asks the seller to revoke the sale of a slave or slave-girl in consideration of which he will pay an extra ten dinars

immediately or on credit terms, extended beyond the original term, that should not be done. It is disapproved of because it is as if, for instance, the seller is buying the one hundred dinars which is not yet due on a year's credit term before the year expires for a slave-girl and ten dinars to be paid immediately or on credit term longer than the year. This falls into the category of selling gold for gold when delayed terms enter into it."

Malik said that it was not proper for a man to sell a slave-girl to another man for one hundred dinars on credit and then to buy her back for more than the original price or on a credit term longer than the original term for which he sold her. To understand why that was disapproved of in that case, the example of a man who sold a slave-girl on credit and then bought her back on a credit term longer than the original term was looked at. He might have sold her for thirty dinars with a month to pay and then buy her back for sixty dinars with a year or half a year to pay. The outcome would only be that his goods would have returned to him just like they were and the other party would have given him thirty dinars on a month's credit against sixty dinars on a year or half a year's credit. That was not to be done.

Section: Wealth of Slaves

Book 31, Number 31.2.2:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that Umar ibn al-Khattab said, "If a slave who has wealth is sold, that wealth belongs to the seller unless the buyer stipulates its inclusion."

Malik said, "The generally agreed upon way of doing things among us is that if the buyer stipulates the inclusion of the slave's property whether it be cash, debts, or goods of known or unknown value, then they belong to the buyer, even if the slave possesses more than that for which he was purchased, whether he was bought for cash, as payment for a debt, or in exchange for goods. This is possible because a master is not asked to pay zakat on his slave's property. If a slave has a slave-girl, it is halal for him to have intercourse with her by his right of possession. If a slave is freed or put under contract (kitaba) to purchase his freedom, then his property goes with him. If he becomes bankrupt, his creditors take his property and his master is not liable for any of his debts."

Section: Built-In Liability Agreements

Book 31, Number 31.3.3:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Muhammad ibn Amr ibn Hazm that Aban ibn Uthman and Hisham ibn Ismail used to mention in their khutbas built-in liability agreements in the sale of slaves, to cover both a three day period and a similar clause covering a year. Malik explained, "The defects a lave or slave-girl are found to have from the time they are bought until the end of the three days are the responsibility of the seller. The year agreement is to cover insanity, leprosy, and loss of limbs due to disease. After a year, the seller is free from any liability."

Malik said,"An inheritor or someone else who sells a slave or slave-girl without any such built-in guarantee is not responsible for any fault in the slave and there is no liability agreement held against him unless he was aware of a fault and concealed it. If he was aware of a fault, the lack of guarantee does not protect him. The purchase is returned. In our view, built-in liability agreements only apply to the purchase of slaves."

Section: Defects in Slaves

Book 31, Number 31.4.4:

Yahya related to me from Malik from Yahya ibn Said from Salim ibn Abdullah that Abdullah ibn Umar sold one of his slaves for eight hundred dirhams with the stipulation that he was not responsible for defects. The person who bought the slave complained to Abdullah ibn Umar that the slave had a disease which he had not told him about. They argued and went to Uthman ibn Affan for a decision . The man said, "He sold me a slave with a disease which he did not tell me about." Abdullah said, "I sold to him with the stipulation that I was not responsible." Uthman ibn Affan decided that Abdullah ibn Umar should take an oath that he had sold the slave without knowing that he had any disease. Abdullah ibn Umar refused to take the oath, so the slave was returned to him and recovered his health in his possession. Abdullah sold him afterwards for 1500 dirhams.

Malik said, "The generally agreed upon way of doing things among us about a man who buys a female slave and she becomes pregnant, or who buys a slave and then frees him, or if there is any other such matter which has already happened so that he cannot return his purchase, and a clear proof is established that there was a fault in that purchase when it was in the hands of the seller or the fault is admitted by the seller or someone else, is that the slave or slave-girl is assessed for its value with the fault it is found to have had on the day of purchase and the buyer is refunded,from what he paid,the difference between the price of a slave who is sound and a slave with such a defect.

Malik said, "The generally agreed upon way of doing things among us regarding a man who buys a slave and then finds out that the slave has a defect for which he can be returned and meanwhile another defect has happened to the slave whilst in his possession, is that if the defect which occurred to the slave in his possession has harmed him, like loss of a limb, loss of an eye, or something similar, then he has a choice. If he wants, he can have the price of the slave reduced commensurate with the defect (he bought him with) according to the prices on the day he bought him, or if he likes, he can pay compensation for the defect which the slave has suffered in his possession and return him. The choice is up to him. If the slave dies in his possession, the slave is valued with the defect which he had on the day of his purchase. It is seen what his price would really have been. If the price of the slave on the day of purchase without fault was 100 dinars, and his price on the day of purchase with fault would have been 80 dinars, the price is reduced by the difference. These prices are assessed according to the market value on the day the slave was purchased . "

Malik said, "The generally agreed upon way of doing things among us is that if a man returns a slave girl in whom he has found a defect and he has already had intercourse with her, he must pay what he has reduced of her price if she was a virgin. If she was not a virgin, there is nothing against his having had intercourse with her because he had charge of her."

Malik said, "The generally agreed upon way of doing things among us regarding a person, whether he is an inheritor or not, who sells a slave, slave-girl, or animal without a liability agreement is that he is not responsible for any defect in what he sold unless he knew about the fault and concealed it. If he knew that there was a fault and concealed it, his declaration that he was free of responsibility does not absolve him, and what he sold is returned to him."

Malik spoke about a situation where a slave-girl was bartered for two other slave-girls and then one of the slave-girls was found to have a defect for which she could be returned. He said, "The slave-girl worth two other slave-girls is valued for her price. Then the other two slave-girls are valued, ignoring the defect which the one of them has. Then the price of the slave-girl sold for two slave-girls is divided between them according to their prices so that the proportion of each of them in her price is arrived at - to the higher priced one according to her higher price, and to the other according to her value. Then one looks at the one with the defect, and the buyer is refunded according to the amount her share is affected by the defect, be it little or great. The price of the two slave-girls is based on their market value on the day that they were bought."

Malik spoke about a man who bought a slave and hired him out on a long-term or short-term basis and then found out that the slave had a defect which necessitated his return. He said that if the man returned the slave because of the defect, he kept the hire and revenue. "This is the way in which things are done in our city. That is because, had the man bought a slave who then built a house for him, and the value of the house was many times the price of the slave, and he then found that the slave had a defect for which he could be returned, and he was returned, he would not have to make payment for the work the slave had done for him. Similarly, he would keep any revenue from hiring him out, because he had charge of him. This is the way of doing things among us."

Malik said, "The way of doing things among us when someone buys several slaves in one lot and then finds that one of them has been stolen, or has a defect, is that he looks at the one he finds has been stolen or the one in which he finds a defect. If he is the pick of those slaves, or the most expensive, or it was for his sake that he bought them, or he is the one in whom people see the most excellence, then the whole sale is returned. If the one who is found to be stolen or to have a defect is not the pick of the slaves, and he did not buy them for his sake, and there is no special virtue which people see in him, the one who is found to have a defect or to have been stolen is returned as he is, and the buyer is refunded his portion of the total price."

Section: What is Done about Slave-Girls when Purchased and Conditions Made about Them

Book 31, Number 31.5.5:

Yahya related to me from Malik from Ibn Shihab that Ubaydullah ibn Abdullah ibn Utba ibn Masud told him that Abdullah ibn Masud bought a slave-girl from his wife, Zaynab Ath Thaqafiyya. She made a condition to him, that if he bought her, she could always buy her back for the price that he paid. Abdullah ibn Masud asked Umar ibn al-Khattab about that and Umar ibn al-Khattab said, "Do not go near her while anyone has a condition concerning her over you."

Book 31, Number 31.5.6:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar would say, "A man should not have intercourse with a slave girl except one whom, if he wished, he could sell, if he wished, he could give away, if he wished, he could keep, if he wished, he could do with her what he wanted ."

Malik said that a man who bought a slave-girl on condition that he did not sell her, give her away, or do something of that nature, was not to have intercourse with her. That was because he was not permitted to sell her or to give her away, so if he did not own that from her, he did not have complete ownership of her because an exception had been made concerning her by the hand of someone else. If that sort of condition entered into it, it was a messy situation, and the sale was not recommended.

Section: Prohibition against Intercourse with Slave-Girls Who Have Husbands

Book 31, Number 31.6.7:

Yahya related to me from Malik from Ibn Shihab that Abdullah ibn Amir gave Uthman ibn Affan a slave-girl who had a husband whom he had purchased at Basra. Uthman said, "I will not go near her until her husband separates from her." Ibn Amir compensated the husband and he separated from her.

Book 31, Number 31.6.8:

Yahya related to me from Malik from Ibn Shihab from Abu Salama ibn Abd ar-Rahman ibn Awf that Abd ar-Rahman ibn Awf bought a slave-girl and found that she had a husband, so he returned her.

Section: Ownership of the Fruit of Trees which have been Sold

Book 31, Number 31.7.9:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "If palm trees are sold after they have been pollinated, the fruit belongs to the seller unless the buyer makes a stipulation about its inclusion."

Section: Prohibition against Selling Fruit until It starts to Ripen

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Book 31, Number 31.8.10:

Yahya related to me from Malik from Nafi from Ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, forbade selling fruit until it had started to ripen. He forbade the transaction to both buyer and seller.

Book 31, Number 31.8.11:

Yahya related to me from Malik from Humayd at-Tawil from Anas ibn Malik that the Messenger of Allah, may Allah bless him and grant him peace, forbade selling fruit until it had become mellow. He was asked, "Messenger ofAllah! What do you mean by become mellow?" He said, "When it becomes rosy."

The Messenger of Allah, may Allah bless him and grant him peace, added, "Allah may prevent the fruit from maturing, so how can you take payment from your brother for it."

Book 31, Number 31.8.12:

Yahya related to me from Malik from Abu'r-Rijal Muhammad ibn Abd ar-Rahman ibn Haritha from his mother, Amra bint Abd ar-Rahman that the Messenger of Allah, may Allah bless him and grant him peace, forbade selling fruit until it was clear of blight. Malik said, "Selling fruit before it has begun to ripen is an uncertain transaction (gharar) ."

Book 31, Number 31.8.13:

Yahya related to me from Malik from Abu'z-Zinad from Kharija ibn Zayd ibn Thabit that Zayd ibn Thabit did not sell fruit until the Pleiades were visible, at the end of May.

Malik said, "The way of doing things among us about selling melons, cucumbers, water-melons, and carrots is that it is halal to sell them when it is clear that they have begun to ripen. Then the buyer has what grows until the season is over. There is no specific timing laid down for that because the time is well known with people, and it may happen that the crop will be affected by blight and put a premature end to the season. If blight strikes and a third or more of the crop is damaged, an allowance for that is deducted from the price of purchase."

Section: The Sale of Ariyas

Book 31, Number 31.9.14:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar from Zayd ibn Thabit that the Messenger of Allah, may Allah bless him and grant him peace, allowed the holder of an ariya to barter the dates on the palm for the amount of dried dates it was estimated that the palms would produce.

Yahya related to me from Malik from Da'ud ibn al-Husayn from Abu Sufyan, the mawla of Ibn Abi Ahmad, from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, allowed the produce of an ariya to be bartered for an estimation of what the produce would be when the crop was less than five awsuq or equal to five awsuq. Da'ud wasn't sure whether he said five awsuq or less than five.

Malik said, "Ariyas can be sold for an estimation of what amount of dried dates will be produced. The crop is examined and estimated while still on the palm. This is allowed because it comes into the category of delegation of responsibility, handing over rights, and involving a partner. Had it been like a form of sale, no one would have made someone else a partner in the produce until it was ready nor would he have renounced his right to any of it or put someone in charge of it until the buyer had taken possession."

Section: How Crop Damage Affects Sales of Agricultural Produce

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Book 31, Number 31.10.15:

Yahya related to me from Malik that Abu'r-Rijal Muhammad ibn Abd ar-Rahman heard his mother, Amra bint Abd ar-Rahman say, "A man bought the fruit of an enclosed orchard in the time of the Messenger of Allah, may Allah bless him and grant him peace, and he tended it while staying on the land. It became clear to him that there was going to be some loss. He asked the owner of the orchard to reduce the price for him or to revoke the sale, but the owner made an oath not to do so. The mother of the buyer went to the Messenger of Allah, may Allah bless him and grant him peace, and told him about it. The Messengerof Allah, may Allah bless him and grant him peace, said, 'By this oath, he has sworn not to do good.' The owner of the orchard heard about it and went to the Messenger of Allah, may Allah bless him and grant him peace, and said, 'Messenger of Allah, the choice is his.' "

Book 31, Number 31.10.16:

Yahya related to me from Malik that he had heard that Umar ibn Abd al-Aziz decided in a case to make a reduction for crop damage.

Malik said, "That is what we do in the situation."

Malik added, "Crop damage is whatever causes loss of a third or more for the purchaser. Anything less is not counted as crop damage."

Section: What is Permissible in Keeping Back a Portion of the Fruit

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Book 31, Number 31.11.17:

Yahya related to me from Malik from Rabia ibn Abd ar-Rahman that al-Qasim ibn Muhammad would sell produce from his orchard and keep some of it aside.

Book 31, Number 31.11.18:

Yahya related to me from Malik from Abdullah ibn Abi Bakr that his grandfather, Muhammad ibn Amr ibn Hazm sold the fruit of an orchard of his called al-Afraq, for 4,000 dirhams, and he kept aside 800 dirhams' worth of dry dates.

Book 31, Number 31.11.19:

Yahya related to me from Malik from Abu'r-Rijal, Muhammad ibn Abdar-Rahman ibn Haritha that his mother, Amra bint Abd ar-Rahman used to sell her fruit and keep some of it aside.

Malik said, "The generally agreed upon way of doing things among us is that when a man sells the fruit of his orchard, he can keep aside up to a third of the fruit, but that is not to be exceeded. There is no harm in what is less than a third."

Malik added that he thought there was no harm for a man to sell the fruit of his orchard and keep aside only the fruit of a certain palm-tree or palm-trees which he had chosen and whose number he had specified, because the owner was only keeping aside certain fruit of his own orchard and everything else he sold.

Section: What is Not Recommended in the Sale of Dates

Book 31, Number 31.12.20:

Yahya related to me from Malik from Zayd ibn Aslam that Ata ibn Yasar said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'Dried dates for dried dates is like for like.' It was said to him, 'Your agent in Khaybar takes one sa for two.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'all him to me.' So he was called for. The Messenger of Allah, may Allah bless him and grant him peace, asked, 'Do you take one sa for two?' He replied, 'Messengerof Allah! Why should they sell me good dates for assorted low quality dates, sa for sa!' The Messenger of Allah, may Allah bless him and grant him peace, said, 'Sell the assorted ones for dirhams, and then buy the good ones with those dirhams.' "

Book 31, Number 31.12.21:

Yahya related to me from Malik from Abd al-Hamid ibn Suhayl ibn Abd ar-Rahman ibn Awf from Said ibn al-Musayyab from Abu Said al-Khudri and from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, appointed a man as an agent in Khaybar, and he brought him some excellent dates. The Messenger of Allah, may Allah bless him and grant him peace, said to him, "Are all the dates of Khaybar like this?" He said,"No. By Allah, Messenger of Allah! We take a sa of this kind for two sa or two sa for three." The Messenger of Allah, may Allah bless him and grant him peace, said, "Do not do that. Sell the assorted ones for dirhams and then buy the good ones with the dirhams."

Book 31, Number 31.12.22:

Yahya related to me from Malik from Abdullah ibn Yazid that Zayd ibn Ayyash told him that he had once asked Sad ibn Abi Waqqas about selling white wheat for a type of good barley. Sad asked him which was the better and when he told him the white wheat, he forbade the transaction. Sad said, "I heard the Messenger of Allah, may Allah bless him and grant him peace, being asked about selling dried dates for fresh dates, and the Messenger of Allah, may Allah bless him and grant him peace, said, 'Do the dates diminish in size when they become dry?' When he was told that they did, he forbade that."

Section: Muzabana and Muhaqala

Book 31, Number 31.13.23:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, forbade muzabana. Muzabana was selling fresh dates for dried dates by measure, and selling grapes for raisins by measure.

Book 31, Number 31.13.24:

Yahya related to me from Malik from Da'ud ibn al-Husayn from Abu Sufyan, the mawla of Ibn Abi Ahmad, from Abu Said al-Khudri that the Messenger of Allah, may Allah bless him and grant him peace, forbade muzabana and muhaqala. Muzabana was selling fresh dates for dried dates while they were still on the trees. Muhaqala was renting land in exchange for wheat.

Book 31, Number 31.13.25:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab that the Messenger of Allah, may Allah bless him and grant him peace, forbade muzabana and muhaqala. Muzabana was selling fresh dates for dried dates. Muhaqala was buying unharvested wheat in exchange for threshed wheat and renting land in exchange for wheat.

Ibn Shihab added that he had asked Said ibn al-Musayyab about renting land for gold and silver. He said, "There is no harm in it."

Malik said, "The Messenger of Allah, may Allah bless him and grant him peace, forbade muzabana. The explanation of muzabana is that it is buying something whose number, weight and measure is not known with something whose number, weight or measure is known, for instance, if a man has a stack of food whose measure is not known, either of wheat, dates, or whatever food, or the man has goods of wheat, date kernels, herbs, safflower, cotton, flax, silk, and does not know its measure or weight or number and then a buyer approaches him and proposes that he weigh or measure or count the goods, but, before he does, he specifies a certain weight, or measure, or number and guarantees to pay the price for that amount, agreeing that whatever falls short of that amount is a loss against him and whatever is in excess of that amount is a gain for him. That is not a sale. It is taking risks and it is an uncertain transaction. It falls into the category of gambling because he is not

buying something from him for something definite which he pays. Everything which resembles this is also forbidden."

Malik said that another example of that was, for instance, a man proposing to another man, "You have cloth. I will guarantee you from this cloth of yours so many hooded cloaks, the measureof each cloak to be such-and-such, (naming a measurement). Whatever loss there is, is against me and I will fulfill you the specified amount and whatever excess there is, is mine." Or perhaps the man proposed, "I will guarantee you from this cloth of yours so many shirts, the measurement of each shirt to be such-and-such, and whatever loss there is, is against me and I will fulfill the specified amount and whatever excess there is, is mine." Or perhaps a man proposed to a man who had cattle or camel hides, "I will cut up these hides of yours into sandals on a pattern I will show you. Whatever falls short of a hundred pairs, I will make up its loss and whatever is over is mine because I guaranteed you." Another example was that a man say to a man who had ben-nuts, "I will press these nuts of yours. Whatever falls short of such-and-such a weight by the pound, I will make it up, and whatever is more than that is mine."

Malik said that all this and whatever else was like it or resembled it was in the category of muzabana, which was neither good nor permitted. It was also the same case for a man to say to a man, who had fodder leaves, date kernels, cotton, flax, herbs or safflower, "I will buy these leaves from you in exchange for such-and-such a sa, (indicating leaves which are pounded like his leaves) . . or these date kernels for such-and-such a sa of kernels like them, and the like of that in the case of safflower, cotton, flax and herbs."

Malik said, "All this is what we have described of muzabana."

Section: General Remarks about Selling Produce at its Source

Book 31, Number 31.14.26:

Malik said, "There is no harm in buying dates from specified trees or a specified orchard or buying milk from specified sheep when the buyer starts to take them as soon as he has payed the price. That is like buying oil from a container. A man buys some of it for a dinar or two and gives his gold and stipulates that it be measured out for him. There is no harm in that. If the container breaks and the oil is wasted, the buyer has his gold back and there is no transaction between them."

Malik said, "There is no harm in everything which is taken right away as it is, like fresh milk and fresh picked dates which the buyer can take on a day-to-day basis. If the supply runs out before the buyer has what he has paid for in full, the seller gives him back the portion of the gold that is owed to him, or else the buyer takes other goods from him to the value of what he is owed and which they mutually agree about. The buyer should stay with the seller until he has taken it. It is disapproved of for the seller to leave because the transaction would then come into the forbidden category of a debt for a debt. If a stated time period for payment or delivery enters into the transaction, it is also disapproved. Delay and deferment are not permitted in it, and are only acceptable when it is standard practice on definite terms by which the

seller guarantees it to the buyer, but this is not to be from one specific orchard or from any specific ewes."

Malik was asked about a man who bought an orchard from another man in which there were various types of palm-trees - excellent ajwa palms, good kabis palms, adhq palms and othertypes. The seller kept aside from the sale the produce of a certain palm of his choice. Malik said, "That is not good because if he does that, and keeps aside, for instance, dates of the ajwa variety whose yield would be 15 sa, and he picks the dates of the kabis in their place, and the yield of their dates is 10 sa or he picks the ajwa which yield 15 sa and leaves the kabis which yield 10 sa, it is as if he bought the ajwa for the kabis making allowances for their difference of quality. This is the same as if a man dealing with a man who has heaps of dates before him - a heap of 15 sa of ajwa, a heap of 10 sa of kabis, and a heap of 12 sa of cadhq, gives the owner of the dates a dinar to let him choose and take whichever of the heaps he likes." Malik said, "That is not good."

Malik was asked what a man who bought fresh dates from the owner of an orchard and advanced him a dinar was entitled to if the crop was spoilt. Malik said, "The buyer makes a reckoning with the owner of the orchard and takes what is due to him of the dinar. If the buyer has taken two-thirds of a dinar's worth of dates, he gets back the third of a dinar which is owed him. If the buyer has taken three-quarters of a dinar's worth of dates, then he gets back the quarter which is owed to him, or they come to a mutual agreement, and the buyer takes what is owed him from his dinar from the owner of the orchard in something else of his choosing. If, for instance, he prefers to take dry dates or some other goods, he takes them according to what is due. If he takes dry dates or some other goods, he should stay with him until he has been paid in full."

Malik said, "This is the same situation as hiring out a specified riding-camel or hiring out a slave tailor, carpenter or some other kind of worker or letting a house and taking payment in advance for the hire of the slave or the rent of the house or camel. Then an accident happens to what has been hired resulting in death or something else. The owner of the camel, slave or house returns what remains of the rent of the camel, the hire of the slave or the rent of the house to the one who advanced him the money, and the owner reckons what will settle that up in full. If, for instance, he has provided half of what the man paid for, he returns the remaining half of what he advanced, or according to whatever amount is due." Malik said, "Paying in advance for something which is on hand is only good when the buyer takes possession of what he has paid for as soon as he hands over the gold, whether it be slave, camel, or house, or in the case of dates, he starts to pick them as soon as he has paid the money."

It is not good that there be any deferment or credit in such a transaction.

Malik said, "An example illustrating what is disapproved of in this situation is that, for instance, a man may say that he will pay someone in advance for the use of his camel to ride in the hajj, and the hajj is still some time off, or he may say something similar to that about a slave or a house. When he does that, he only pays the money in advance on the understanding that if he finds the camel to be sound at the time the

hire is due to begin, he will take it by virtue of what he has already paid. If an accident, or death, or something happens to the camel, then he will get his money back and the money he paid in advance will be considered as a loan."

Malik said, "This is distinct from someone who takes immediate possession of what he rents or hires, so that it does not fall into the category of 'uncertainty,' or disapproved payment in advance. That is following a common practice. An example of that is that a man buys a slave, or slave-girl, and takes possession of them and pays their price. If something happens to them within the period of the year indemnification contract, he takes his gold back from the one from whom he bought it. There is no harm in that. This is the precedent of the sunna in the matter of selling slaves."

Malik said, "Someone who rents a specified slave, or hires a specified camel, for a future date, at which time he will take possession of the camel or slave, has not acted properly because he did not take possession of what he rented or hired, nor is he advancing a loan which the person is responsible to pay back."

Section: Selling Fruit

Book 31, Number 31.15.27:

Malik said, "The generally agreed on way of doing things among us is that some one who buys some fruit, fresh or dry, should not resell it until he gets full possession of it. He should not barter things of the same type, except hand to hand. Whatever can be made into dry fruit to be stored and eaten, should not be bartered for its own kind, except hand to hand, like for like, when it is the same kind of fruit. In the case of two different kinds of fruit, there is no harm in bartering two of one kind for one of another, hand to hand on the spot. It is not good to set delayed terms. As for produce which is not dried and stored but is eaten fresh like water melon, cucumber, melon, carrots, citron, medlars, pomegranates, and soon, which when dried no longer counts as fruit, and is not a thing which is stored up as is fruit, I think that it is quite proper to barter such things two for one of the same variety hand to hand. If no term enters into it, there is no harm in it."

Section: Selling Gold for Silver, Minted and Unminted

Book 31, Number 31.16.28:

Yahya related to me from Malik that Yahya ibn Said said, "The Messenger of Allah, mayAllah bless him and grant him peace, ordered the two Sads to sell a vessel made of either gold or silver from the booty. They either sold each three units of weight for four units of weight of coins or each four units of weight for three units of weight or coins. The Messenger of Allah, may Allah bless him and grant him peace, said to them, 'You have taken usury, so return it.' "

Book 31, Number 31.16.29:

Yahya related to me from Malik from Musa ibn Abi Tamim from Abu'l Hubab Said

ibn Yasar from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "A dinar for a dinar, a dirham for a dirham, no excess between the two."

Book 31, Number 31.16.30:

Yahya related to me from Malik from Nafi from Abu Said al-Khudri that the Messenger of Allah, may Allah bless him and grant him peace, said, "Do not sell gold for gold except like for like and do not increase one part over another part. Do not sell silver for silver, except like for like and do not increase one part over another part. Do not sell some of it which is not there for some of it which is."

Book 31, Number 31.16.31:

Yahya related to me from Malik from Humayd ibn Qays al-Makki that Mujahid said, "I was with Abdullah ibn Umar and an artisan came to him and said, 'Abu Abd ar-Rahman - I fashion gold and then sell what I have made for more than its weight. I take an amount equivalent to the work of my hand.' Abdullah forbade him to do that, so the artisan repeated the question to him, and Abdullah continued to forbid him until he came to the door of the mosque or to an animal that he intended to mount. Then Abdullah ibn Umar said, 'A dinar for a dinar, and a dirham for a dirham. There is no increase between them. This is the command of ourProphet to us and our advice to you.' "

Book 31, Number 31.16.32:

Yahya related to me from Malik that he had heard from his grandfather, Malik ibn Abi Amir that Uthman ibn Affan said, "The Messenger of Allah, may Allah bless him and grant him peace, said to me, 'Do not sell a dinar for two dinars nor a dirham for two dirhams.' "

Book 31, Number 31.16.33:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that Muawiya ibn Abi Sufyan sold a gold or silver drinking-vessel for more than its weight. Abu'dDarda said, "I heard the Messenger of Allah, may Allah bless him and grant him peace, forbidding such sales except like for like." Muawiya said to him, "I don't see any harm in it." Abu'd-Darda said to him, "Who will excuse me from Muawiya? I tell him something from the Messenger of Allah, may Allah bless him and grant him peace, and he gives me his own opinion! I will not live in the same land as you!" Then Abu'd-Darda went to Umar ibn al-Khattab and mentioned that to him. Umar ibn al-Khattab therefore wrote to Muawiya, "Do not sell it except like for like, weight for weight."

Book 31, Number 31.16.34:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that Umar ibn al-Khattab said, "Do not sell gold for gold except like for like, and do not increase

one part over another part. Do not sell silver for silver except like for like, and do not increase one part over another part. Do not sell silver for gold, one of them at hand and the other to be given later. If someone seeks to delay paying you until he has been to his house, do not leave him. I fear rama for you." Rama is usury.

Book 31, Number 31.16.35:

Yahya related to me from Malik from Abdullah ibn Dinar from Abdullah ibn Umar that Umar ibn al-Khattab said, "Do not sell gold for gold except like for like. Do not increase part of it over another part. Do not sell silver for silver except like for like, and do not increase part of it over another part. Do not sell some of it which is there for some of it which is not. If someone asks you to wait for payment until he has been to his house, do not leave him. I fear rama for you." Rama is usury.

Book 31, Number 31.16.36:

Yahya related to me from Malik that he had heard that al-Oasim ibn Muhammad said, "Umar ibn al-Khattab said, 'A dinar for a dinar, and a dirham for adirham, and a sa for a sa. Something to be collected later is not to be sold for something at hand. ' "

Book 31, Number 31.16.37a:

Yahya related to me from Malik that Abu'z-Zinad heard Said ibn al-Musayyab say, "There is usury only in gold or silver or what is weighed or measured of what is eaten or drunk."

Book 31, Number 31.16.37b:

Yahya related to me from Malik that Yahya ibn Said heard Said ibn al-Musayyab say, "Keeping gold and silver out of circulation is part of working corruption in the land."

Malik said, "There is no harm in buying gold with silver or silver with gold without measuring if it is unminted or a piece of jewellery which has been made. Counted dirhams and counted dinars should not be bought without reckoning until they are known and counted. To abandon number and buy them at random would only be to speculate. That is not part of the business transactions of Muslims. As for what is weighed of unminted objects and jewellery, there is no harm in buying such things without measuring. To buy them without measuring is like buying wheat, dried dates, and such food-stuffs, which are sold without measuring, even though things like them are measured "

Malik spoke about buying a Qur'an, a sword or a signet ring which had some gold or silver work on it with dinars or dirhams. He said, "The value of the object bought with dinars, which has gold in it is looked at. If the value of the gold is up to one-third of the price, it is permitted and there is no harm in it if the sale is hand to hand and there is no deferment in it. When something is bought with silver which has silver in it, the value is looked at. If the value of the silver is one-third, it is permitted and there is no harm in it if the sale is hand to hand. That is still the way of doing things

among us."

Section: Money-Changing

Book 31, Number 31.17.38:

Yahya related to me from Malik from Ibn Shihab from Malik ibn Aus ibn al-Hadathan an-Nasri that one time he asked to exchange 100 dinars. He said, "Talha ibn Ubaydullah called me over and we made a mutual agreement that he would make an exchange for me. He took the gold and turned it about in his hand, and then said, 'I can't do it until my treasurer brings the money to me from al-Ghaba.' Umar ibn al-Khattab was listening and Umar said, 'By Allah! Do not leave him until you have taken it from him!' Then he said, 'The Messenger of Allah, may Allah bless him and grant him peace, said, "Gold for silver is usury except hand to hand. Wheat for wheat is usury except hand to hand. Dates for dates is usury except hand to hand. Barley for barley is usury except hand to hand." '"

Malik said, "When a man buys dirhams with dinars and then finds a bad dirham among them and wants to return it, the exchange of the dinars breaks down, and he returns the silver and takes back his dinars. The explanation of what is disapproved of in that is that the Messenger of Allah, may Allah bless him and grant him peace, said, 'Gold for silver is usury except hand to hand.' and Umar ibn al-Khattab said, 'If someone asks you to wait to be paid until he has gone back to his house, do not leave him.' When he returns a dirham to him from the exchange after he has left him, it is like a debt or something deferred. For that reason, it is disapproved of, and the exchange collapses. Umar ibn al-Khattab wanted that all gold, silver and food should not be sold for goods to be paid later. He did not want there to be any delay or deferment in any such sale, whether it involved one commodity or different sorts of commodities."

Section: Selling Gold for Gold and Silver for Silver by Weight

Book 31, Number 31.18.39:

Yahya related to me from Malik that Yazid ibn Abdullah ibn Qusayt saw Said ibn al-Musayyab sell gold counterpoising for gold. He poured his gold into one pan of the scales, and the man with whom he was counterpoising put his gold in the other pan of the scale and when the tongue of the scales was balanced, they took and gave.

Malik said, "According to the way things are done among us there is no harm in selling gold for gold, and silver for silver by counterpoising weight, even if 11 dinars are taken for 10 dinars hand to hand, when the weight of gold is equal, coin for coin, even if the number is different. Dirhams in such a situation are treated the same way as dinars."

Malik said, "If, when counterpoising gold for gold or silver for silver, there is a difference of weight, one party should not give the other the value of the difference in silver or something else. Such a transaction is ugly and a means to usury because if one of the parties were permitted to take the difference for a separate price, it could

be as if he had bought it separately, so he would be permitted. Then it would be possible for him to ask for many times the value of the difference in order to permit the completion of the transaction between the two parties.

Malik said, "If he had really been sold the difference without anything else with it, he would not have taken it for a tenth of the price for which he took it in order to put a 'legal front' on the transaction. This leads to allowing what is forbidden . The matter is forbidden."

Malik said that it was not good when counterpoising to give good old gold coins and put along with them unminted gold in exchange for worn kufic gold, which was unpopular and to then treat the exchange as like for like.

Malik said, "The commentary on why that is disapproved is that the owner of the good gold uses the excellence of his old gold coins as an excuse to throw in the unminted gold with it. Had it not been for the superiority of his (good) gold over the gold of the other party, the other party would not have counterpoised the unminted gold for his kufic gold, and the deal would have been refused.

"It is like a man wanting to buy three sa of ajwa dried dates for two sa and a mudd of kabis dates, and on being told that it was not good, then offering two sa of kabis and a sa of poor dates desiring to make the sale possible. That is not good because the owner of the ajwa should not give him a sa of ajwa for a sa of poor dates. He would only give him that because of the excellence of kabis dates.

"Or it is like a man asking some one to sell him three sa of white wheat for two and a half sa of Syrian wheat, and being told that it was not good except like for like, and so offering two sa of wheat and one sa of barley intending to make the sale possible between them. That is not good because no one would have given a sa of barley for a sa of white wheat had that sa been by itself. It was only given because of the excellence of Syrian wheat over the white wheat. This is not good. It is the same as the case of the unminted gold."

Malik said, "Where gold, silver and food, things which should only be sold like for like, are concerned, something disliked and of poor quality should not be put with something good and desirable in order to make the sale possible and to make a bad situation halal. When something of desirable quality is put with something of poor quality and it is only included so that its excellence in quality is noticed, something is being sold which if it had been sold on its own, would not have been accepted and to which the buyer would not have paid any attention. It is only accepted by the buyer because of the superiority of what comes with it over his own goods. Transactions involving gold, silver, or food, must not have anything of this description enter into them. If the owner of the poor quality goods wants to sell them, he sells them on their own, and does not put anything with them. There is no harm if it is like that."

Section: Buying on Delayed Terms and Re-Selling for Less on More Immediate Terms

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Book 31, Number 31.19.40:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Someone who buys food, must not resell it until he takes delivery of it all."

Book 31, Number 31.19.41:

Yahya related to me from Malik from Abdullah ibn Dinar from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Someone who buys food, must not sell it until he takes possession of it."

Book 31, Number 31.19.42:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said, "In the time of the Messenger of Allah, may Allah bless him and grant him peace, we used to buy food. He sent orders for us to move our purchases from the place in which we purchased them to another place before we re-sold them."

Book 31, Number 31.19.43:

Yahya related to me from Malik from Nafi that Hakim ibn Hizam traded in food for people as Umar ibn al-Khattab had ordered him to do. Hakim re-sold the food before he had taken delivery of it. That reached Umar ibn al-Khattab and he revoked the sale and said, "Do not sell food which you have purchased until you take delivery of it."

Book 31, Number 31.19.44:

Yahya related to me from Malik that he had heard that receipts were given to people in the time of Marwan ibn al-Hakam for the produce of the market at al-Jar. People bought and sold the receipts among themselves before they took delivery of the goods. Zayd Thabit and one of the Companions of the Messenger of Allah, may Allah bless him and grant him peace, went to Marwan ibn al-Hakam and said, "Marwan! Do you make usury halal?" He said, "I seek refuge with Allah! What is that?" He said, "These receipts which people buy and sell before they take delivery of the goods." Marwan therefore sent a guard to follow them and to take them from people's hands and return them to their owners.

Book 31, Number 31.19.45:

Yahya related to me from Malik that he had heard that a man wanted to buy food from a man in advance. The man who wanted to sell the food to him went with him to the market, and he began to show him heaps, saying, "Which one would you like me to buy for you." The buyer said to him, "Are you selling me what you do not have?" So they came to Abdullah ibn Umarand mentioned that to him. Abdallah ibn Umar said to the buyer, "Do not buy from him what he does not have." He said to the seller, "Do not sell what you do not have."

Book 31, Number 31.19.46:

Yahya related to me from Malik that Yahya ibn Said heard Jamil ibn Abd ar-Rahman the Muadhdhin say to Said ibn al-Musayyab, "I am a man who buys whatever Allah wills of the receipts for the provisions which people are offered at al-Jar. I want to take payment for goods that I guarantee to deliver at a future date." Said said to him, "Do you intend to settle these things with receipts for provisions you have bought?" He said, "Yes." So he forbade that.

Malik said, "The generally agreed on way of doing things among us in which there is no dispute, about buying food - wheat, barley, durra-sorghum, pearl millet, or any pulse or anything resembling pulses on which zakat is obliged, or condiments of any sort - oil, ghee, honey, vinegar, cheese, sesame oil, milk and so on, is that the buyer should not re-sell any of that until he has taken possession and complete delivery of it.

Section: What is Disapproved in Selling Food with Delayed Payment or Delivery

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Book 31, Number 31.20.47:

Yahya related to me from Malik that Abu'z-Zinad heard Sa'id ibn al-Musayyab andSulayman ibn Yasar forbid a man to sell wheat for gold on delayed terms and then to buy dried dates with the gold before he had taken delivery of the gold.

Book 31, Number 31.20.48:

Yahya related to me from Malik that Kathir ibn Farqad asked Abu Bakr ibn Muhammad ibn Amr ibn Hazm about a man who sold food to be delivered at a future date to a man for gold and then with the gold, he bought dates before he had taken delivery of the gold. He disapproved of that and forbade it.

Yahya related to me from Malik from Ibn Shihab the like of that.

Malik said, "Said ibn al-Musayyab, Sulayman ibn Yasar, Abu Bakr ibn Muhammad ibn Amr ibn Hazm, and Ibn Shihab forbade that a man sell wheat for gold and then buy dates with that gold before he had received the gold from the transaction in which he sold the wheat. There is no harm for someone to buy dates on delayed terms, on the strength of the gold for which he sold the wheat, from someone other than the person to whom he sold the wheat before taking possession of the gold, and to refer the one from whom he bought the dates to his debtor who bought the wheat, for the gold he is owed for the dates."

Malik said, "I asked more than one of the people of knowledge about that and they did not see any harm in it."

Section: Pre-payment on Food

Book 31, Number 31.21.49:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar said that there

was no harm in a man making an advance to another man for food, with a set description and price until a set date, as long as it was not in crops, or dates which had not begun to ripen.

Malik said, "The way of doing things among us concerning someone who makes an advance for foodstuffs at a known rate until a stated date, and the date arrives and he finds that there is not enough of what he was sold with the seller to fulfill his order, and so he revokes the sale, is that he must only take back the silver, gold, or price which he paid exactly. He does not buy anything else from the man for the same price until he has got back what he paid. That is because if he took something else besides the price which he paid him or exchanged it for goods other than the goods which he bought from him, it would be selling food before getting delivery of it."

Malik said, "The Messenger of Allah, may Allah bless him and grant him peace, forbade selling food before getting delivery of it."

Malik said that it was not good if the buyer regretted his purchase and asked the seller to revoke the sale for him and he would not press him immediately for what he had paid. The people of knowledge forbade that. That was because when the food was made ready for the buyer by the seller, the buyer deferred his due from the seller in order that he might revoke the sale for him. That was the sale of food with delayed terms before taking delivery of the food.

Malik said, "The explanation of that is that when the date of delivery comes and the buyer dislikes the food, the seller takes by it money to be paid later and so it is not revocation. Revocation is that in which neither the buyer nor the seller is increased. When increase occurs by deferment of payment for a time period, or by anything which increases one of them over the other or anything which gives one of them profit, it is not revocation. When either of them do that, revocation becomes a sale. There is an indulgence for revocation, partnership, and transfer, as long as i ncrease, decrease, or deferment does not come into them. If increase, decrease, or deferment comes into it, it becomes a sale. Whatever makes a sale halal makes it halal and whatever makes a sale haram makes it haram."

Malik said, "If someone pays in advance for Syrian wheat, there is no harm if he takes a load after the term falls due."

Malik said, "It is the same with whoever advances for any kind of thing. There is no harm in him taking better than whatever he has made an advance for or worse than it after the agreed delivery date. The explanation of that is that if, for instance, a man advances for a certain weight of wheat. There is no harm if he decides to take some barley or Syrian wheat. If he has made an advance for good dates, there is no harm if he decides to take poor quality dates. If he paid in advance for red raisins, there is no harm if he takes black ones, when it happens after the agreed delivery date, and when the measure of what he takes is like the measure of what he paid for in advance."

Section: Bartering Food for Food with No Increase between Them

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Book 31, Number 31.22.50:

Yahya related to me from Malik that he had heard that Sulayman ibn Yasar said, "The fodder of the donkeys of Saad ibn Abi Waqqas ran out and so he told his slave to take some of the family's wheat and buy barley with it, and to only take a like quantity."

Book 31, Number 31.22.51:

Yahya related to me from Malik from Nafi that Sulayman ibn Yasar told him that one time the fodder of the animals of Abd ar-Rahman ibn al-Aswad ibn Abd Yaghuth was finished so he said to his slave, "Take some of your family's wheat as food and buy with it barley, and take only a like quantity.' "

Book 31, Number 31.22.52:

Yahya related to me from Malik that he had heard the same as that from al-Qasim ibn Muhammad from Ibn Muayqib ad-Dawsi.

Malik said, "This is the way of doing things among us . "

Malik said, "The generally agreed on way of doing things among us is that wheat is not sold for wheat, dates for dates, wheat for dates, dates for raisins, wheat for raisins, nor any kind of food sold for food at all, except from hand to hand. If there is any sort of delayed terms in the transaction, it is not good. It is haram. Condiments are not bartered except from hand to hand."

Malik said, "Food and condiments are not bartered when they are the same type, two of one kind for one of the other. A mudd of wheat is not sold for two mudds of wheat, nor a mudd of dates for two mudds of dates, nor a mudd of raisins for two mudds of raisins, nor is anything of that sort done with grains and condiments when they are of one kind, even if it is hand to hand.

"This is the same position as silver for silver and gold for gold. No increase is halal in the transaction, and only like for like, from hand to hand is halal."

Malik said, "If there is a clear difference in foodstuffs which are measured and weighed, there is no harm in taking two of one kind for one of another, hand to hand. There is no harm in taking a sa of dates for two sa of wheat, and a sa of dates for two sa of raisins, and a sa of wheat for two sa of ghee. If the two sorts in the transaction are different, there is no harm in two for one or more than that from hand to hand. If delayed terms enter into the sale, it is not halal ."

Malik said, "It is not halal to trade a heap of wheat for a heap of wheat. There is no harm in a heap of wheat for a heap of dates, from hand to hand. That is because there is no harm in buying wheat with dates without precise measurement."

Malik said, "With kinds of foods and condiments that differ from each other, and the difference is clear, there is no harm in bartering one kind for another, without precise measurement from hand to hand. If delayed terms enter into the sale, there is no good in it. Bartering such things without precise measurement is like buying it with gold and silver without measuring precisely."

Malik said, "That is because you buy wheat with silver without measuring precisely, and dates with gold without measuring precisely, and it is halal. There is no harm in it."

Malik said, "It is not good for someone to make a heap of food, knowing its measure and then to sell it as if it had not been measured precisely, concealing its measure from the buyer. If the buyer wants to return that food to the seller, he can, because he concealed its measure and so it is an uncertain transaction. This is done with any kind of food or other goods whose measure and number the seller knows, and which he then sells without measurement and the buyer does not know that. If the buyer wants to return that to the seller, he can return t. The people of knowledge still forbid such a transaction."

Malik said, "There is no good in selling one round loaf of bread for two round loaves, nor large for small when some of them are bigger than others. When care is taken that they are like for like, there is no harm in the sale, even if they are not weighed."

Malik said, "It is not good to sell a mudd of butter and a mudd of milk for two mudds of butter. This is like what we described of selling dates when two sa of kabis and a sa of poor quality dates were sold for three sa of ajwa dates after the buyer had said to the seller, 'Two sa of kabis dates for three sa of ajwa dates is not good,' and then he did that to make the transaction possible. The owner of the milk puts the milk with his butter so that he can use the superiority of his butter over the butter of the other party to put his milk in with it."

Malik said, "Flour for wheat is like for like, and there is no harm in that. That is if he does not mix up anything with the flour and sell it for wheat, like for like. Had he put half a mudd of flour and half of wheat, and then sold that for a mudd of wheat, it would be like what we described, and it would not be good because he would want to use the superiority of his good wheat to put flour along with it. Such a transaction is not good."

Section: General Section on Selling Food

Book 31, Number 31.23.53:

Yahya related to me from Malik that Muhammad ibn Abdullah ibn Abi Maryam asked Said ibn al-Musayyab's advice. "I am a man who buys food with receipts from al-Jar. Perhaps I will buy something for a dinar and half a dirham, and will be given food for a half." Said said, "No. You give a dirham, and take the rest in food." (A half dirham did not exist as a coin.)

Book 31, Number 31.23.54:

Yahya related to me from Malik that he had heard that Muhammad Sirin used to say, "Do not sell grain on the ears until it is white."

Malik said, "If someone buys food for a known price to be delivered at a stated date,

and when the date comes, the one who owes the food says, 'I do not have any food, sell me the food which I owe you with delayed terms.' The owner of the food says, 'This is not good, because the Messenger of Allah, may Allah bless him and grant him peace, forbade selling food until the deal was completed.' The one who owes the food says to his creditor, 'Sell me any kind of food on delayed terms until I discharge the debt to you.' This is not good because he gives him food and then he returns it to him. The gold which he gave him becomes the price of that which is his right against him and the food which he gave him becomes what clears what is between them. If they do that, it becomes the sale of food before the deal is complete."

Malik spoke about a man who was owed food which he had purchased from a man and this man was owed the like of that food by another man. The one who owed the food said to his creditor, "I will refer you to my debtor who owes me the same amount of food as I owe you, so that you may obtain the food which I owe you ."

Malik said, "If the man who had to deliver the food, had gone out, and bought the food to pay off his creditor, that is not good. That is selling food before taking possession of it. If the food is an advance which falls due at that particular time, there is no harm in paying off his creditor with it because that is nota sale. It is not halal to sell food before receiving it in full since the Messenger of Allah, may Allah bless him and grant him peace, forbade that. However, the people of knowledge agree that there is no harm in partnership, transfer of responsibility and revocation in sales of food and other goods."

Malik said, "That is because the people of knowledge consider it as a favour rendered. They do not consider it as a sale. It is like a man lending light dirhams. He is then paid back in dirhams of full weight, and so gets back more than he lent. That is halal for him and permitted. Had a man bought defective dirhams from him as being the full weight, that would not be halal. Had it been stipulated to him that he lend full weight in dirhams, and then he gave faulty ones, that would not be halal for him."

Book 31, Number 31.23.55:

Malik said, "Another example of that is that the Messenger of Allah, may Allah bless him and grant him peace, forbade the sale called muzabana and granted an indulgence in the ariya for computing the equivalent in dates. It was distinguished between them that the muzabana-sale was based on shrewdness and trade, and the ariya sale was based on a favour rendered, and there was no shrewdness in it."

Malik said, "A man must not buy food for a fourth, a third, or a fraction of a dirham on the basis that he be given that food on credit. There is no harm in a man buying food for a fraction of a dirham on credit and then he gives a dirham and takes goods with what remains of his dirham because he gave the fraction he owed as silver, and took goods to make up the rest of his dirham. There is no harm in that transaction."

Malik said, "There is no harm in a man placing a dirham with another man and then taking from him known goods for a fourth, third, or a known fraction. If there was not a known price on the goods and the man said, 'I will take them from you for the

price of each day,' this is not halal because there is uncertainty. It might be less one time, and more another time, and they would not part with a known sale."

Malik said, "If someone sells some food without measuring precisely and does not exclude any of it from the sale and then it occurs to him to buy some of it, it is not good for him to buy any of it except what it would be permitted for him to exclude from it. That is a third or less. If it is more than a third, it becomes muzabana and is disapproved. He must only purchase from what he would be permitted to exclude, and he is only permitted to exclude a third or less than that. This is the way of doing things in which there is no dispute with us."

Section: Hoarding and Raising Prices by Stock-Piling

Book 31, Number 31.24.56:

Yahya related to me from Malik that he had heard that Umar ibn al-Khattab said, "There is no hoarding in our market, and men who have excess gold in their hands should not buy up one of Allah's provisions which he has sent to our courtyard and then hoard it up against us. Someone who brings imported goods through great fatigue to himself in the summer and winter, that person is the guest of Umar. Let him sell what Allah wills and keep what Allah wills."

Book 31, Number 31.24.57:

Yahya related to me from Malik from Yunus ibn Yusuf from Said ibn al-Musayyab that Umar ibn al-Khattab passed by Hatab ibn Abi Baltaa who was underselling some of his raisins in the market. Umar ibn al-Khattab said to him, "Either increase the price or leave our market."

Book 31, Number 31.24.58:

Yahya related to me from Malik that he had heard that Uthman ibn Affan forbade hoarding .

Section: What is Permitted in Selling Some Animals for Others and Making an Advance for Them

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Book 31, Number 31.25.59:

Yahya related to me from Malik from Salih ibn Kaysan from Hasan ibn Muhammad ibn Ali ibn Abi Talib that Ali ibn Abi Talib sold one of his camels called Usayfir for 20 camels to be delivered later.

Book 31, Number 31.25.60:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar bought a female riding-camel for four camels and he guaranteed to give them in full to the buyer at ar-Rabadha.

Book 31, Number 31.25.61:

Yahya related to me that Malik asked Ibn Shihab about selling animals, two for one with delayed terms. He said, "There is no harm in it."

Malik said, "The generally agreed on way of doing things among us is that there is no harm in bartering a camel for a camel like it and adding some dirhams to the exchange, from hand to hand. There is no harm in bartering a camel for a camel like it with some dirhams on top of the exchange, the camels to be exchanged from hand to hand, and the dirhams to be paid within a period." He said, "There is no good however in bartering a camel for a camel like it with some dirhams on top of it, with the dirhams paid in cash and the camel to be delivered later. If both the camel and the dirhams are deferred there is no good in that either."

Malik said, "There is no harm in buying a riding camel with two or more pack-camels, if they are from inferior stock. There is no harm in bartering two of them for one with delayed terms, if they are different and their difference is clear. If they resemble each other whether their species are different or not, two are not to be taken for one with delayed terms."

Malik said, "The explanation of what is disapproved of in that, is that a camel should not be bought with two camels when there is no distinction between them in speed or hardiness. If this is according to what I have described to you, then one does not buy two of them for one with delayed terms. There is no harm in selling those of them you buy before you complete the deal to somebody other than the one from whom you bought them if you get the price in cash."

Malik said, "It is permitted for someone to advance something on animals for a fixed term and describe the amount and pay its price in cash. Whatever the buyer and seller have described is obliged for them. That is still permitted behaviour between people and what the people of knowledge in our land do."

Section: What Is Not Permitted in the Sale of Animals

Book 31, Number 31.26.62:

Yahya related to me from Malih from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, forbade the transaction called habal alhabala. It was a transaction which the people of Jahiliya practised. A man would buy the unborn offspring of the unborn offspring of a she-camel.

Book 31, Number 31.26.63:

Yahya related to me from Malik from Ibn Shihab that Said ibn al-Musayyab said, "There is no usury in animals. There are three things forbidden in animals: al-madamin, al-malaqih and habal al-habala. Al-madamin is the sale of what is in the wombs of female camels. Al-malaqih is the sale of the breeding qualities of camels" (i.e. for stud).

Malik said, "No one should buy a specified animal when it is concealed from him or in another place, even if he has already seen it, very recently or not so recently, and was pleased enough with it to pay its price in cash."

Malik said, "That is disapproved of because the seller makes use of the price and it is not known whether or not those goods are found to be as the buyer saw them or not. For that reason, it is disapproved of. There is no harm in it if it is described and guaranteed."

Section: Selling Animals in Exchange for Meat

Book 31, Number 31.27.64:

Yahya related to me from Malik from Zayd ibn Aslam from Said ibn al-Musayyab that the Messenger of Allah, may Allah bless him and grant him peace, forbade bartering live animals for meat.

Book 31, Number 31.27.65:

Yahya related to me from Malik from Da'ud ibn al-Husayn that he heard Said ibn alMusayyab say, "Part of the gambling of the people of Jahiliya was bartering live animals for slaughtered meat, for instance one live sheep for two slaughtered sheep."

Book 31, Number 31.27.66:

Yahya related to me from Malik from Abu'z-Zinad that Said ibn al-Musayyab said, "Bartering live animals for dead meat is forbidden." Abu'z-Zinad said, "I said to Said ibn Musayyab, 'What do you think of a man buying an old camel for 10 sheep?' " Said said, "If he buys it to slaughter it, there is no good in it." Abu'z-Zinad added, "All the people (i.e. companions) that I have seen forbade bartering live animals for meat."

Abu'z-Zinad said, "This used to be written in the appointment letters of governors in the time of Aban ibn Uthman and Hisham ibn Ismail."

Section: Selling Meat for Meat

Book 31, Number 31.28.67:

Malik said, "It is the generally agreed on way of doing things among us that the meat of camels, cattle, sheep and so on is not to be bartered one for one, except like for like, weight for weight, from hand to hand. There is no harm in that. If it is not weighed, then it is estimated to be like for like from hand to hand."

Malik said, "There is no harm in bartering the meat of fish for the meat of camels, cattle, and sheep and so on two or more for one, from hand to hand. If delayed terms enter the transaction however, there is no good in it."

Malik said, "I think that poultry is different from the meat of cattle and fish. I see no

harm in selling some of it for something different, more of one than another, from hand to hand. None of that is to be sold on delayed terms."

Section: Selling dogs

Book 31, Number 31.29.68:

Yahya related to me from Malik from Ibn Shihab from Abu Bakr ibn Abd ar-Rahman ibn al-Harith ibn Hisham from Abu Masud al-Ansari that the Messenger of Allah, may Allah bless him and grant him peace, forbade the sale price of a dog, the earnings of a prostitute and the earnings of a fortune teller.

By the earnings of a prostitute he meant what a woman was given for fornication. The earnings of a fortune teller were what he was given to tell a fortune.

Malik said, "I disapprove of the price of a dog, whether it is a hunting dog or otherwise because the Messenger of Allah, may Allah bless him and grant him peace, forbade the price of a dog."

Section: Advance and Sale of Some Goods for Others

Book 31, Number 31.30.69:

Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, forbade 'selling and lending.'

Malik said, "The explanation of what that meant is that one man says to another, 'I will take your goods for such-and-such if you lend me such-and-such.' If they agree to a transaction in this manner, it is not permitted. If the one who stipulates the loan abandons his stipulation, then the sale is permitted."

Malik said, "There is no harm in exchanging linen from Shata, for garments from Itribi, or Qass, or Ziqa. Or the cloth of Herat or Merv for Yemeni cloaks and shawls and such like as one for two or three, from hand to hand or with delayed terms. If the goods are of the same kind, and deferment enters into the transaction, there is no good in it."

Malik said, "It is not good unless they are different, and the difference between them is clear. When they resemble each other, even if the names are different, do not take two for one with delayed terms, for instance two garments of Herat for one from Merv or Quhy with delayed terms, ortwo garments of Furqub for one from Shata. All these sorts are of the same description, so do not buy two for one, on delayed terms."

Malik said, "There is no harm in selling what you buy of things of this nature, before you complete the deal, to some one other than the person from whom you purchased them if the price was paid in cash."

Section: The Advance on Goods

Book 31, Number 31.31.70:

Yahya related to me from Malik from Yahya ibn Said that al-Qasim ibn Muhammad said, "I heard Abdullah ibn Abbas say, when a man asked him about a man making an advance on some garments and then wanting to sell them back before taking possession of them, 'That is silver for silver,' and he disapproved of it."

Malik said, "Our opinion is - and Allah knows best that was because he wanted to sell them to the person from whom he had bought them for more than the price for which he bought them. Had he sold them to some one other than the person from whom he had purchased them, there would not have been any harm in it."

Malik said, "The generally agreed on way of doing things among us concerning making an advance for slaves, cattle or goods is that when all of what is to be sold is described and an advance is made for them for a date, and the date falls due, the buyer does not sell any of that to the person from whom he has purchased it for more than the price which he advanced for it before he has taken full possession of what he has advanced for. It is usury if he does. If the buyer gives the seller dinars or dirhams and he profits with them, then, when the goods come to the buyer and he does not take them into his possession but sells them back to their owner for more than what he advanced for them, the outcome is that what he has advanced has returned to him and has been increased for him."

Malik said, "If someone advances gold or silver for described animals or goods which are to be delivered before a named date, and the date arrives, or it is before or after the date, there is no harm in the buyer selling those goods to the seller, for other goods, to be taken immediately and not delayed, no matter how extensive the amount of those goods is, except in the case of food because it is not halal to sell it before he has full possession of it. The buyer can sell those goods to some one other than the person from whom he purchased them for gold or silver or any goods. He takes possession of it and does not defer it because if he defers it, that is ugly and there enters into the transaction what is disapproved of: delay for delay. Delay for delay is to sell a debt against one man for a debt against another man."

Malik said, "If someone advances for goods to be delivered after a time, and those goods are neither something to be eaten nor drunk, he can sell them to whomever he likes for cash or goods, before he takes delivery of them, to some one other than the person from whom he purchased them. He must not sell them to the person from whom he bought them except in exchange for goods which he takes possession of immediately and does not defer."

Malik said, "If the delivery date for the goods has not arrived, there is no harm in selling them to the original owner for goods which are clearly different and which he takes immediate possession of and does not defer."

Malik spoke about the case of a man who advanced dinars or dirhams for four specified pieces of cloth to be delivered before a specified time and when the term fell due, he demanded delivery from the seller and the seller did not have them. He found that the seller had cloth but inferior quality, and the seller said that he would give him eight of those cloths. Malik said, "There is no harm in that if he takes the cloths which he offers him before they separate. It is not good if delayed terms enter

into the transaction. It is also not good if that is before the end of the term, unless he sells him cloth which is notthetypeof cloth for which he made an advance.

Section: Selling Copper and Iron and Such Things which are Weighed

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Book 31, Number 31.32.71:

Malik said, "The generally agreed on way of doing things among us about whatever is weighed but is not gold or silver, i.e. copper, brass, lead, black lead, iron, herbs, figs, cotton, and any such things that are weighed, is that there is no harm in bartering all those sorts of things two for one, hand to hand. There is no harm in taking a ritl of iron for two ritls of iron, and a ritl of brass for two ritls of brass."

Malik said, "There is no good in two for one of one sort with delayed terms. There is no harm in taking two of one sort for one of another on delayed terms, if the two sorts are clearly different. If both sorts resemble each other but their names are different, like lead and black lead, brass and yellow brass, I disapprove of taking two of one sort for one of the other on delayed terms."

Malik said, "When buying something of this nature, there is no harm in selling It beforetaking possession of it to some one other than the person from whom it was purchased, if the price is taken immediately and if it was bought originally by measure or weight. If it was bought without measuring, it should be sold to someone other than the person from whom it was bought, for cash or with delayed terms. That is because goods have to be guaranteed when they are bought without measuring, and they cannot be guaranteed when bought by weight until they are weighed and the deal is completed. This is the best of what I have heard about all these things. It is what people continue to do among us."

Malik said, "The way of doing things among us with what is measured or weighed of things which are not eaten or drunk, like safflower, date-stones, fodder leaves, indigo dye and the like of that is that there is no harm in bartering all those sort of things two for one, hand to hand. Do not take two for one from the same variety with delayed terms. If the types are clearly different, there is no harm in taking two of one for one of the other with delayed terms. There is no harm in selling whatever is purchased of all these sorts, before taking delivery of them if the price is taken from someone other than the person from whom they were purchased."

Malik said, "Anything of any variety that profits people, like gravel and gypsum, one quantity of them for two of its like with delayed terms is usury. One quantity of both of them for its equal plus any increase with delayed terms, is usury."

Section: Prohibition against Two Sales in One Sale

Book 31, Number 31.33.72:

Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, forbade two sales in one sale.

Book 31, Number 31.33.73:

Yahya related to me from Malik that he had heard that a man said to another, "Buy this camel for me immediately so that I can buy him from you on credit." Abdullah ibn Umar was asked about that and he disapproved of it and forbade it.

Book 31, Number 31.33.74:

Yahya related to me from Malik that he had heard that al-Qasim ibn Muhammad was asked about a man who bought goods for 10 dinars cash or fifteen dinars on credit. He disapproved of that and forbade it.

Malik said that if a man bought goods from a man for either 10 dinars or 15 dinars on credit, that one of the two prices was obliged on the buyer. It was not to be done because if he postponed paying the ten, it would be 15 on credit, and if he paid the ten, he would buy with it what was worth fifteen dinars on credit.

Malik said that it was disapproved of for a man to buy goods from someone for either a dinar cash or for a described sheep on credit and that one of the two prices was obliged on him. It was not to be done because the Messenger of Allah, may Allah bless him and grant him peace, forbade two sales in one sale. This was part of two sales in the one sale.

Malik spoke about a man saying to another, "'I will either buy these fifteen sa of ajwa dates from you, or these ten sa of sayhani dates or I will buy these fifteen sa of inferior wheat or these ten sa of Syrian wheat for a dinar, and one of them is obliged to me.' Malik said that it was disapproved of and was not halal. That was because he obliged him ten sa of sayhani, and left them and took fifteen sa of ajwa, or he was obliged fifteen sa of inferior wheat and left them and took ten sa of Syrian wheat. This was also disapproved of, and was not halal. It resembled what was prohibited in the way of two sales in one sale. It was also included under the prohibition against buying two for one of the same sort of food."

Section: Transactions with Uncertainty in Them

Book 31, Number 31.34.75:

Yahya related to me from Malik from Abu Hazim ibn Dinar from Said ibn al-Musayyab that the Messenger of Allah, may Allah bless him and grant him peace, forbade the sale with uncertainty in it.

Malik said, "An example of one type of uncertain transaction and risk is that a man intends the price of a stray animal or escaped slave to be fifty dinars. A man says, 'I will take him from you for twenty dinars.' If the buyer finds him, thirty dinars goes from the seller, and if he does not find him, the seller takes twenty dinars from the buyer."

Malik said, "There is another fault in that. If that stray is found, it is not known whether it will have increased or decreased in value or what defects may have befallen it. This transaction is greatly uncertain and risky."

Malik said, "According to our way of doing things, one kind of uncertain transaction and risk is selling what is in the wombs of females - women and animals - because it is not known whether or not it will come out, and if it does come out, it is not known whether it will be beautiful or ugly, normal or disabled, male or female. All that is disparate. If it has that, its price is such-and-such, and if it has this, its price is such-and-such."

Malik said, "Females must not be sold with what is in their wombs excluded. That is that, for instance, a man says to another, 'The price of my sheep which has much milk is three dinars. She is yours for two dinars while I will have her future offspring.' This is disapproved because it is an uncertain transaction and a risk."

Malik said, "It is not halal to sell olives for olive oil or sesame for sesame oil, or butter for ghee because muzabana comes into that, because the person who buys the raw product for something specified which comes from it, does not know whether more or less will come out of that, so it is an uncertain transaction and a risk."

Malik said, "A similar case is the selling of ben-nuts for ben-nut oil. This is an uncertain transaction because what comes from the ben-nut is ben-oil. There is no harm in selling ben-nuts for perfumed ben because perfumed ben has been perfumed, mixed and changed from the state of raw ben-nut oil."

Malik, speaking about a man who sold goods to a man on the provision that there was to be no loss for the buyer, (i.e. if the buyer could not re-sell the goods they could go back to the seller), said, "This transaction is not permitted and it is part of risk. The explanation of why it is so, is that it is as if the seller hired the buyer for the profit if the goods make a profit. If he sells the stock at a loss, he has nothing, and his efforts are not compensated. This is not good. In such a transaction, the buyer should have a wage according to the work that he has contributed. Whatever there is of loss or profit in those goods is for and against the seller. This is only when the goods are gone and sold. If they do not go, the transaction between them is null and void."

Malik said, "As for a man who buys goods from a man and he concludes the sale and then the buyer regrets and asks to have the price reduced and the seller refuses and says, 'Sell it and I will compensate you for any loss.' There is no harm in this because there is no risk. It is something he proposes to him, and their transaction was not based on that. That is what is done among us."

Section: Al-Mulamasa and al-Munabadha

Book 31, Number 31.35.76:

Yahya related to me from Malik from Muhammad ibn Yahya ibn Habban and from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, forbade mulamasa and munabadha.

Malik said, "Mulamasa is when a man can feel a garment but is not allowed to unfold it or examine what is in it, or he buys by night and does not know what is in it. Munabadha is that a man throws his garment to another, and the other throws his

garment without either of them making any inspection. Each of them says, 'this is for this. 'This is what is forbidden of mulamasa and munabadha."

Malik said that selling bundles with a list of their contents was different from the sale of the cloak concealed in a bag or the cloth folded up and such things. What made it different was that it was a common practice and it was what people were familiar with, and what people had done in the past, and it was still among the permitted transactions and trading of people in which they saw no harm because in the sale of bundles with a list of contents without undoing them, an uncertain transaction was not intended and it did not resemble mulamasa.

Book 31, Number 31.35.77:

Yahya related to me, that Malik said, "The generally agreed on way of doing things among us about a man buying cloth in one city, and then taking it to another city to sell as a murabaha, is that he is not reckoned to have the wage of an agent, or any allowance for ironing, folding, straightening, expenses, or the rent of a house. As for the cost of transporting the drapery, it is included in the basic price, and no share of the profit is allocated to it unless the agent tells all of that to the investor. If they agree to share the profits accordingly after knowledge of it, there is no harm in that."

Malik said, "As for bleaching, tailoring, dyeing, and such things, they are treated in the same way as drapery. The profit is reckoned in them as it is reckoned in drapery goods. So if he sells the drapery goods without clarifying the things we named as not getting profit, and if the drapery has already gone, the transport is to be reckoned, but no profit is given. If the drapery goods have not gone the transaction between them is null and void unless they make a new mutual agreement on what is to be permitted between them ."

Malik spoke about an agent who bought goods for gold or silver, and the exchange rate on the day of purchase was ten dirhams to the dinar. He took them to a city to sell murabaha, or sold them where he purchased them according to the exchange rate of the day on which he sold them. If he bought them for dirhams and he sold them for dinars, or he bought them for dinars and he sold them for dirhams, and the goods had not gone then he had a choice. If he wished, he accepted to sell the goods and if he wished, he left them. If the goods had been sold, he had the price for which the salesman bought them, and the salesman was reckoned to have the profit on what they were bought for, over what the investor gained as profit.

Malik said, "If a man sells goods worth one hundred dinars for one hundred and ten, and he hears after that they are worth ninety dinars, and the goods have gone, the seller has a choice. If he likes, he has the price of the goods on the day they were taken from him unless the price is more than the price for which he was obliged to sell them in the first place, and he does not have more than that - and it is one hundred and ten dinars. If he likes, it is counted as profit against ninety unless the price his goods reached was less than the value. He is given the choice between what his goods fetch and the capital plus the profit, which is ninety-nine dinars."

Malik said, "If someone sells goods in murabaha and he says, 'It was valued at one

hundred dinars to me.' Then he hears later on, that it was worth one hundred and twenty dinars, the customer is given the choice. If he wishes, he gives the salesman the value of the goods on the day he took them, and if he wishes, he gives the price for which he bought them according to the reckoning of what profit he gives him, as far as it goes, unless that is less than the price for which he bought them, for he should not give the owner of the goods a loss from the price for which he bought them because he was satisfied with that. The owner of the goods came to seek extra, so the buyer has no argument against the salesman in that to make a reduction from the first price for which he bought it according to the list of contents."

Section: Sale according to List of Contents

Book 31, Number 31.36.79:

Malik spoke about what was done among them in the case of a group of people who bought goods, drapery or slaves, and a man heard about it and said to one of the group, "I have heard the description and situation of the drapery goods you bought from so-and-so. Shall I give you such-and-such profit to take over your portion?" This person agreed, and the man gave him the profit and became a partner in his place. When he looked at the purchase, he saw that it was ugly and found it too expensive.

Malik said, "It is obliged on him and there is no choice in it for him if he bought it according to a list of contents and the description was well-known."

Malik spoke about a man who had drapery goods sent to him, and salesmen came to him and he read to them his list of contents and said, "In each bag is such-and-such a wrap from Basra and such-and-such a light wrap from Sabir. Their size is such-and-such," and he named to them types of drapery goods by their sort, and he said, "Buy them from me according to this description." They bought the bags according to what he described to them, and then they bought them and found them too expensive and regretted it. Malik said, "The sale is binding on them, if the goods agree with the list of contents on which he sold them."

Malik said, "This is the way of doing things which people still use today. They permit the sale among them when the goods agree with the list of contents and are not different from it. "

Section: The Right of Withdrawal (Khiyar)

Book 31, Number 31.37.80:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Both parties in a business transaction have the right of withdrawal as long as they have not separated, except in the transaction called khiyar."

Malik said, "There is no specified limit nor any matter which is applied in this case according to us."

Book 31, Number 31.37.81:

Malik related to me that he had heard that Abdullah ibn Masud used to relate that the Messenger of Allah, may Allah bless him and grant him peace, said, "When two parties dispute about a business transaction, the seller's word is taken, or they make an agreement among themselves.

Malik spoke about someone who sold goods to a man, and said at the contracting of the sale, 'I will sell to you provided I consult so-and-so. If he is satisfied, the sale is permitted. If he dislikes it, there is no sale between us.' They made the transaction on that basis. Then the buyer regretted before the seller consulted the person.

Malik said, "That sale is binding on them according to what they described. The buyer has no right of withdrawal, and it is binding on him, if the person whom the seller stipulated to him, permits it."

Malik said, "The way of doing things among us about a man who buys goods from another and they differ about the price, and the seller says, 'I sold them to you for ten dinars,' and the buyer says, 'I bought them from you for five dinars,' is that it is said to the seller, 'If you like, give them to the buyer for what he said. If you like, swear by Allah that you only sold your goods for what you said.' If he swears it is said to the buyer, 'Either you take the goods for what the seller said, or you swear by Allah that you bought them only for what you said.' If he swears, he is free to return the goods. That is when each of them testifies against the other."

Section: Usury in Debts

Book 31, Number 31.38.82:

Yahya related to me from Malik from Abu'z-Zinad from Busr ibn Said from Ubayd, Abu Salih, the mawla of as-Saffah that he said, "I sold drapery to the people of Dar Nakhla on credit. Then I wanted to go to Kufa, so they proposed that I reduce the price for them and they would pay me immediately . I asked Zayd ibn Thabit about that, and he said, 'I order you not to accept increase or to give to anybody.' "

Book 31, Number 31.38.83:

Yahya related to me from Malik from Uthman ibn Hafs ibn Khalda from Ibn Shihab from Salim ibn Abdullah that Abdullah ibn Umar was asked about a man who took a loan from another man for a set term. The creditor reduced the debt, and the man paid it immediately Abdullah ibn Umar disliked that, and forbade it.

Book 31, Number 31.38.84:

Malik related to me that Zayd ibn Aslam said, "Usury in the Jahiliyya was that a man would give a loan to a man for a set term. When the term was due, he would say, 'Will you pay it off or increase me?' If the man paid, he took it. If not, he increased him in his debt and lengthened the term for him ."

Malik said, "The disapproved of way of doing things about which there is no dispute among us, is that a man should give a loan to a man for a term, and then the demander reduce it and the one from whom it is demanded pay it in advance. To us that is like someone who delays repaying his debt after it is due to his creditor and his creditor increases his debt." Malik said, "This is nothing else but usury. No doubt about it."

Malik spoke about a man who loaned one hundred dinars to a man for two terms. When it was due, the person who owed the debt said to him, "Sell me some goods, whose price is one hundred dinars in cash for one hundred and fifty on credit." Malik said, "This transaction is not good, and the people of knowledge still forbid it."

Malik said, "This is disapproved of because the creditor himself gives the debtor the price of what the man sells him, and he defers repayment of the hundred of the first transaction for the debtor for the term which is mentioned to him in the second transaction, and the debtor increases him with fifty dinars for his deferring him. That is disapproved of and it is not good. It also resembles the hadith of Zayd ibn Aslam about the transactions of the people of the Jahiliyya. When their debts were due, they said to the person with the debt, 'Either you pay in full or you increase it.' If they paid, they took it, and if not they increased debtors in their debts, and extended the term for them."

Section: Debts and Transfer Debts in General

Book 31, Number 31.39.85:

Yahya related to me from Malik from Abu'z-Zinad from al Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Delay in payment by a rich man is injustice, but when one of you is referred for payment to a wealthy man, let him be referred."

Book 31, Number 31.39.86:

86 Malik related to me from Musa ibn Maysara that he heard a man ask Said ibn al-Musayyab, "I am a man who sells for a debt." Said said, "Do not sell except for what you take to your camel."

Malik spoke about a person who bought goods from a man provided that he provide him with those goods by a specific date, either in time for a market in which he hoped for their saleability, or to fulfil a need at the time he stipulated. Then the seller failed him about the date, and the buyer wanted to return those goods to the seller. Malik said, "The buyer cannot do that, and the sale is binding on him. If the seller does bring the goods before the completion of the term, the buyer cannot be forced to take them."

Malik spoke about a person who bought food and measured it. Then some one came to him to buy it and he told him that he had measured it for himself and taken it in full. The new buyer wanted to trust him and accept his measure. Malik said, "Whatever is sold in this way for cash has no harm in it but whatever is sold in this

way on delayed terms is disapproved of until the new buyer measures it out for himself. The sale with delayed terms is disapproved of because it leads to usury and it is feared that it will be circulated in this way without weight or measure. If the terms are delayed it is disapproved of and there is no disagreement about that with us."

Malik said, "One should not buy a debt owed by a man whether present or absent, without the confirmation of the one who owes the debt, nor should one buy a debt owed to a man by a dead person even if one knows what the deceased man has left. That is because to buy that is an uncertain transaction and one does not know whether the transaction will be completed or not completed."

He said, "The explanation of what is disapproved of in buying a debt owed by someone absent or dead, is that it is not known what unknown debtor may be connected to the dead person. If the dead person is liable for another debt, the price which the buyer gave on strength of the debt may become worthless."

Malik said, "There is another fault in that as well. He is buying something which is not guaranteed for him, and so if the deal is not completed, what he paid becomes worthless. This is an uncertain transaction and it is not good."

Malik said, "One distinguishes between a man who is only selling what he actually has and a man who is being paid in advance for something which is not yet in his possession. The man advancing the money brings his gold which he intends to buy with. The seller says, 'This is 10 dinars. What do you want me to buy for you with it?' It is as if he sold 10 dinars cash for 15 dinars to be paid later. Because of this, it is disapproved of. It is something leading to usury and fraud."

Section: Partnership, Transferral of Responsibility to an Agent and Revocation

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Book 31, Number 31.40.87:

Malik said there was no harm if a man who sold some drapery and excluded some garments by their markings, stipulated that he chose the marked ones from that. If he did not stipulate that he would choose from them when he made the exclusion, I think that he is partner in the number of drapery goods which were purchased from him. That is because two garments can be alike in marking and be greatly different in price.

Malik said, "The way of doing things among us is that there is no harm in partnership, transferring responsibility to an agent, and revocation when dealing with food and other things, whether or not possession was taken, when the transaction is with cash, and there is no profit, loss, or deferment of price in it. If profit or loss or deferment of price from one of the two enters any of these transactions, it becomes sale which is made halal by what makes sale halal, and made haram by what makes sale haram, and it is not partnership, transferring responsibility to an agent, or revocation."

Malik spoke about some one who bought drapery goods or slaves, and the sale was concluded, then a man asked him to be his partner and he agreed and the new partner paid the whole price to the seller and then something happened to the goods which removed them from their possession. Malik said, "The new partner takes the price from the original partner and the original partner demands from the seller the whole price unless the original partner stipulated on the new partner during the sale and before the transaction with the seller was completed that the seller was responsible to him. If the transaction has ended and the seller has gone, the pre-condition of the original partner is void, and he has the responsibility."

Malik spoke about a man who asked another man to buy certain goods to share between them, and he wanted the other man to pay for him and he would sell the goods for the other man. Malik said, "That is not good. When he says, 'Pay for me and I will sell it for you,' it becomes a loan which he makes to him in order that he sell it for him and if those goods are destroyed, or pass, the man who paid the price will demand from his partner what he put in for him. This is part of the advance which brings in profit."

Malik said, "If a man buys goods, and they are settled for him, and then a man says to him, 'Share half of these goods with me, and I will sell them all for you,' that is halal, there is no harm in it. The explanation of that is that this is a new sale and he sells him half of the goods provided that he sells the whole lot."

Section: Bankruptcy of Debtors

Book 31, Number 31.41.88:

Yahya related to me from Malik from Ibn Shihab from Abu Bakr ibn Abd ar-Rahman ibn al-Harith ibn Hisham that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whenever a man sells wares and then the buyer becomes bankrupt and the seller has not taken any of the price and he finds some of his property intact with the buyer, he is more entitled to it than anyone else. If the buyer dies, then the seller is the same as other creditors with respect to it."

Book 31, Number 31.41.89:

Malik related to me from Yahya ibn Said from Abu Bakr ibn Muhammad ibn Amr ibn Hazm from Umar ibn Abdal-Aziz from Abu Bakr ibn Abd ar-Rahman ibn al-Harith ibn Hisham from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "If anyone goes bankrupt, and a man finds his own property intact with him, he is more entitled to it than anyone else."

Malik spoke about a man who sold a man wares, and the buyer went bankrupt. He said, "The seller takes whatever of his goods he finds. If the buyer has sold some of them and distributed them, the seller of the wares is more entitled to them than the creditors. What the buyer has distributed does not prevent the seller from taking whatever of it he finds. It is the seller's right if he has received any of the price from the buyer and he wants to return it to take what he finds of his wares, and in what he does not find, he is like the creditors."

Malik spoke about some one who bought spun wool or a plot of land, and then did some work on it, like building a house on the plot of land or weaving the spun wool into cloth. Then he went bankrupt after he had bought it, and the original owner of the plot said, "I will take the plot and whatever structure is on it." Malik said, "That structure is not his. However, the plot and what is in it that the buyer has improved is appraised. Then one sees what the price of the plot is and how much of that value is the price of the structure. They are partners in that. The owner of the plot has as much as his portion, and the creditors have the amount of the portion of the structure."

Malik said, "The explanation of that is that the value of it all is fifteen hundred dirhams. The value of the plot is five hundred dirhams, and the value of the building is one thousand dirhams. The owner of the plot has a third, and the creditors have two-thirds."

Malik said, "It is like that with spinning and other things of the same nature in these circumstances and the buyer has a debt which he cannot pay. This is the behaviour in such cases."

Malik said, "As for goods which have been sold and which the buyer does not improve, but those goods sell well and have gone up in price, so their owner wants them and the creditors also want to seize them, then the creditors choose between giving the owner of the goods the price for which he sold them and not giving him any loss and surrendering his goods to him.

"If the price of the goods has gone down, the one who sold them has a choice. If he likes, he can take his goods and he has no claim to any of his debtor's property, and that is his right. If he likes, he can be one of the creditors and take a portion of his due and not take his goods. That is up to him."

Malik said about someone who bought a slave-girl or animal and she gave birth in his possession and the buyer went bankrupt, "The slave-girl or the animal and the offspring belong to the seller unless the creditors desire it. In that case they give him his complete due and they take it."

Section: What is Permitted Of Free Loans

Book 31, Number 31.42.90:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that Abu Rafi, the mawla of the Messenger of Allah, may Allah bless him and grant him peace, said, "The Messenger of Allah, may Allah bless him and grant him peace, borrowed a young camel and then the camels of sadaqa came to him." Abu Rafi said, "He ordered me to repay the man his young camel. I said, 'I can only find a good camel in its seventh year in the camels.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'Give it to him. The best of people are those who discharge their debts in the best manner.' "

Book 31, Number 31.42.91:

Malik related to me from Humayd ibn Qays al-Makki that Mujahid said, "Abdullah ibn Umar borrowed some dirhams from a man, then he discharged his debt with dirhams better than them. The man said, 'Abu Abdar-Rahman. These are better than the dirhams which I lent you.' Abdullah ibn Umar said, 'I know that. But I am happy with myself about that.' "

Malik said, "There is no harm in a person who has borrowed gold, silver, food, or animals, taking to the person who lent it, something better than what he lent, when that is not a stipulation between them nor a custom. If that is by a stipulation or promise or custom, then it is disapproved, and there is no good in it."

He said, "That is because the Messenger of Allah, may Allah bless him and grant him peace, discharged his debt with a good camel in its seventh year in place of a young camel which he borrowed, and Abdullah ibn Umar borrowed some dirhams, and repaid them with better ones. If that is from the goodness of the borrower, and it is not by a stipulation, promise, or custom, it is halal and there is no harm in it."

Section: What Is Not Permitted of Free Loans

Book 31, Number 31.43.92:

Yahya related to me from Malik that he had heard that Umar ibn al-Khattab said that he disapproved of one man lending another food on the provision that he gave it back to him in another city. He said, "Where is the transport?"

Book 31, Number 31.43.93:

And Malik related to me that he had heard that a man came to Abdullah ibn Umar and said, "Abu Abd ar-Rahman, I gave a man a loan and stipulated that he give me better than what I lent him." Abdullah ibn Umar said, "That is usury." Abdullah said, "Loans are of three types: A free loan which you lend by which you desire the pleasure of Allah, and so you have the pleasure of Allah. A free loan which you lend by which you desire the pleasure of your companion, so you have the pleasure of your companion, and a free loan which you lend by which you take what is impure by what is pure, and that is usury." He said, "What do you order me to do, Abu Abd ar-Rahman?" He said, "I think that you should tear up the agreement. If he gives you the like of what you lent him, accept it. If he gives you less than what you lent him, take it and you will be rewarded. If he gives you better than what you lent him, of his own good will, that is his gratitude to you and you have the wage of the period you gave him the loan."

Book 31, Number 31.43.94:

Yahya related to me from Malik from Nafi that he heard Abdullah ibn Umar say, "If someone lends something, let the only condition be that it is repaid."

Book 31, Number 31.43.95:

Malik related to me that he had heard that Abdullah ibn Masud used to say, "If someone makes a loan, they should not stipulate better than it. Even if it is a handful of grass, it is usury."

Malik said, "The generally agreed on way of doing things among us is that there is no harm in borrowing any animals with a set description and itemisation, and one must return the like of them. This is not done in the case of female slaves. It is feared about that that it will lead to making halal what is not halal, so it is not good. The explanation of what is disapproved of in that, is that a man borrow a slave-girl and have intercourse with her as seems proper to him. Then he returns her to her owner. That is not good and it is not halal. The people of knowledge still forbid it and do not give an indulgence to any one in it."

Section: What is Forbidden of Haggling and Transactions

Book 31, Number 31.44.96:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Do not let any of you bid against each other."

Book 31, Number 31.44.97:

Malik related to me from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Do not go out to meet the caravans for trade, do not bid against each other, outbidding in order to raise the price, and a townsman must not buy on behalf of a man of the desert, and do not tie up the udders of camels and sheep so that they appear to have a lot of milk, for a person who buys them after that has two recourses open to him after he milks them. If he is pleased with them, he keeps them and if he is displeased with them, he can return them along with a sa of dates."

Malik said, "The explanation of the words of the Messenger of Allah, may Allah bless him and grant him peace, according to what we think - and Allah knows best - 'do not bid against each other,' is that it is forbidden for a man to offer a price over the price of his brother when the seller has inclined to the bargainer and made conditions about the weight of the gold and he has declared himself not liable for faults and such things by which it is recognised that the seller wants to make a transaction with the bargainer. This is what he forbade, and Allah knows best."

Malik said, "There is no harm, however, in more than one person bidding against each other over goods put up for sale."

He said, "Were people to leave off haggling when the first person started haggling, an unreal price might be taken and the disapproved would enter into the sale of the goods. This is still the way of doing things among us."

Book 31, Number 31.44.98:

Malik said, from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, forbade najsh.

Malik said, "Najsh is to offer a man more than the worth of his goods when you do not mean to buy them and someone else follows you in bidding."

Section: Business Transactions in General

Book 31, Number 31.45.99:

Yahya related to me from Malik from Abdullah ibn Dinar from Abdullah ibn Umar that a man mentioned to the Messenger of Allah, may Allah bless him and grant him peace, that he was always being cheated in business transactions. The Messenger of Allah, may Allah bless him and grant him peace, said, "When you enter a transaction, say, 'No trickery.' So whenever that man entered a transaction, he would say, 'No trickery.' "

Book 31, Number 31.45.100:

Malik related to me that Yahya ibn Said heard Said ibn al-Musayyab say, "When you come to a land where they give full measure and full weight, stay there. When you come to a land where they shorten the measure and weight, then do not stay there very long."

Book 31, Number 31.45.101:

Malik related to me from Yahya ibn Said that he heard Muhammad ibn al-Munkadir say, "Allah loves his slave who is generous when he sells, and generous when he buys, generous when he repays, and generous when he is repaid."

Malik said about a man who bought camels or sheep or dry goods or slaves or any goods without measuring precisely, "There is no buying without measuring precisely in anything which can be counted . "

Malik said about a man who gave a man goods to sell for him and set their price saying, "If you sell them for this price as I have ordered you to do, you will have a dinar (or something which he has specified, which they are both satisfied with), if you do not sell them, you will have nothing," "There is no harm in that when he names a price to sell them at and names a known fee. If he sells the goods, he takes the fee, and if he does not sell them, he has nothing."

Malik said, "This is like saying to another man, 'If you capture my runaway slave or bring my stray camel, you will have such-and-such.' This is from the category of reward, and not from the category of giving a wage. Had it been from the category of giving a wage, it would not be good."

Malik said, "As for a man who is given goods and told that if he sells them he will have a named percentage for every dinar, that is not good because whenever he is a dinar less than the price of the goods, he decreases the due which was named for

him. This is an uncertain transaction. He does not know how much he will be given."

Book 31, Number 31.45.102:

Malik related to me that he asked Ibn Shihab about a man who hired an animal, and then re-hired it out for more than what he hired it for. He said, "There is no harm in that."

Translation of Malik's Muwatta, Book 32:

Qirad

Section: Qirad

Book 32, Number 32.1.1:

> Malik related to me from Zayd ibn Aslam that his father said, "Abdullah and Ubaydullah, the sons of Umar ibn al-Khattab went out with the army to Iraq. On the way home, they passed by Abu Musa al-Ashari who was the amir of Basra. He greeted them and made them welcome, and told them that if there was anything he could do to help them, he would do it. Then he said, 'There is some of the property of Allah which I want to send to the amir al-muminin, so I will lend it to you, and you can buy wares from Iraq and sell them in Madina. Then give the principal to the amir al-muminin, and you keep the profit.' They said that they would like to do it, and so he gave them the money and wrote to Umar ibn al-Khattab to take the money from them. When they came to sell they made a profit, and when they paid the principal to Umar he asked, 'Did he lend everyone in the army the like of what he lent you?' They said, 'No.' Umar ibn al-Khattab said, 'He made you the loan, because you are the sons of the amir al-muminin, so pay the principal and the profit.' Abdullah was silent. Ubaydullah said, 'You do not need to do this, amir al-muminin. Had the principal decreased or been destroyed, we would have guaranteed it.' Umar said, 'Pay it.' Abdullah was silent, and Ubaydullah repeated it. A man who was sitting with Umar said, 'Amir al-muminin, better that you make it a qirad. 'Umar said, 'I have made it qirad.' Umar then took the principal and half of the profit, and Abdullah and Ubaydullah, the sons of Umar ibn al-Khattab took half of the profit."

Book 32, Number 32.1.2:

> Malik related to me from al-Ala ibn Abd ar-Rahman from his father from his father that Uthman ibn Affan gave him some money as qirad to use provided the profit was shared between them.

Section: What Is Permitted in Qirad

Book 32, Number 32.2.3:

> Malik said, "The recognised and permitted form of qirad is that a man take capital from an associate to use. He does not guarantee it and in travelling pays out of the capital for food and clothes and what he makes good use of, according to the amount of capital. That is, when he travels to do the work and the capital can support it. If he remains with his people, he does not have expenses or clothing from the capital."
>
> Malik said, "There is no harm in the two parties in a qirad helping each other by way

of a favour when it is acceptable to them both."

Malik said, "There is no harm in the investor of the capital buying some of the goods from the agent in the qirad if that is acceptable and without conditions."

Malik spoke about an investor making a qirad loan to a man and his slave, to be used by both. He said, "That is permitted, and there is no harm in it because the profit is property for his slave, and the profit is not for the master until he takes it from him. It is like the rest of his earnings."

Section: What Is Not Permitted in Qirad

Book 32, Number 32.3.4:

Malik said, "When a man owes money to another man and he asks him to let it stay with him as a quirad, that is disapproved of until the creditor receives his property. Then he can make it a qirad loan or keep it. That is because the debtor may be in a tight situation, and want to delay it to increase it for him."

Malik spoke about an investor who made a qirad loan to a man, and some of the principal was lost before he used it, and then he used it and made a profit. The agent wanted to make the principal the remainder of the money after what was lost from it. Malik said, "His statement is not accepted, and the principal is made up to its original amount from his profit. Then they divide what remains after the principal has been repaid according to the conditions of the qirad."

Malik said, "Qirad loan is only good in gold or silver coin and it is never permitted in any kind of wares or goods or articles."

Malik said, "There are certain transactions which if a long span of time passes after the transaction takes place, its revocation becomes unacceptable. As for usury, there is never anything except its rejection whether it is a little or a lot. What is permitted in other than it is not permitted in it because Allah, the Blessed and the Exalted, said in His Book, 'If you repent, you have your capital back, not wronging and not wronged. ' "

32.4 Conditions Permitted in Qirad

Book 32, Number 32.3.5:

Yahya said that Malik spoke about an investor who made a qirad loan and stipulated to the agent that only certain goods should be bought with his money or he forbade certain goods which he named to be bought. He said, "There is no harm in an investor making a condition on an agent in qirad not to buy a certain kind of animal or goods which he specifies. It is disapproved of for an investor to make as a condition on an agent in qirad that he only buy certain goods unless the goods which he orders him to buy are in plentiful supply and do not fail either in winter or summer. There is no harm in that case."

Malik spoke about an investor who loaned qirad money and stipulated that

something of the profit should be his alone without the agent sharing in it. He said, "That is not good, even if it is only one dirham unless he stipulates that half the profit is his and half the profit is the agent's or a third or a fourth or whatever. When he names a percentage, whether great or small, everything specified by that is halal. This is the qirad of the muslims."

He said, "It is also not good if the investor stipulates that one dirham or more of the profit is purely his, with out the agent sharing it and then what remains of the profit is to be divided in half between them. That is not the qirad of the Muslims."

Section: Conditions Not Permitted in Qirad

Book 32, Number 32.4.6:

Yahya said that Malik said, "The person who puts up the principal must not stipulate that he has something of the profit alone without the agent sharing in it, nor must the agent stipulate that he has something of the profit alone without the investor sharing. In qirad, there is no sale, no rent, no work, no advance, and no convenience which one party specifies to himself without the other party sharing unless one party allows it to the other unconditionally as a favour and that is alright to both. Neither of the parties should make a condition over the other which increases him in gold or silver or food over the other party."

He said, "If any of that enters the qirad, it becomes hire, and hire is only good with known and fixed terms. The agent should not stipulate when he takes the principal that he repay or commission anyone with the goods, nor that he take any of them for himself. When there is a profit, and it is time to separate the capital, then they divide the profit according to the terms of the contract. If the principal does not increase or there is a loss, the agent does not have to make up for what he spent on himself or for the loss. That falls to the investor from the principal. Qirad is permitted upon whatever terms the investor and the agent make a mutual agreement, of half the profit, or a third or a fourth or whatever."

Malik said, "It is not permitted for the agent to stipulate that he use the qirad money for a certain number of years and that it not be taken from him during that time."

He said, "It is not good for the investor to stipulate that the qirad money should not be returned for a certain number of years which are specified, because the qirad is not for a term. The investor loans it to an agent to use for him. If it seems proper to either of them to abandon the project and the money is coin, and nothing has been bought with it, it can be abandoned, and the investor takes his money back. If it seems proper to the investor to take the qirad loan back after goods have been purchased with it, he cannot do so until the buyer has sold the goods and they have become money. If it seems proper to the agent to return the loan, and it has been turned to goods he cannot do so until he has sold them. He returns the loan in cash as he took it."

Malik said, "It is not good for the investor to stipulate that the agent pay any zakat due from his portion of the profit in particular, because the investor by stipulating

that, stipulates fixed increase for himself from the profit because the portion of zakat he would be liable for by his portion of the profit, is removed from him.

"It is not permitted for the investor to stipulate to the agent to only buy from so-and-so, referring to a specific man. That is not permitted because by doing so he would become his hireling for a wage."

Malik spoke about an investor in qirad who stipulated a guarantee for an amount of money from the agent, "The investor is not permitted to stipulate conditions about his principal other than the conditions on which qirad is based or according to the precedent of the sunna of the Muslims. If the principal is increased by the condition of guarantee, the investor has increased his share of the profit because of the position of the guarantee. But the profit is only to be divided according to what it would have been had the loan been given without the guarantee. If the principal is destroyed, I do not think that the agent has a guarantee held against him because the stipulation of guarantees in qirad is null and void."

Malik spoke about an investor who gave qirad money to a man and the man stipulated that he would only buy palms or animals with it because he sought to eat the dates or the offspring of the animals and he kept them for some time to use for himself. He said, "That is not permitted. It is not the sunna of the Muslims in qirad unless he buys it and then sells it as other goods are sold."

Malik said, "There is no harm in the agent stipulating on the investor a slave to help him provided that the slave stands to gain along with him out of the investment, and when the slave only helps him with the investment, not with anything else."

Section: Qirad In Wares

Book 32, Number 32.5.7:

Yahya said that Malik said, "No one should make a qirad loan except in coin, because the loan must not be in wares, since loaning wares can only be worked in one of two ways: Either the owner of the wares says to the borrower, 'Take these wares and sell them. Buy and sell with the capital realized according to qirad.' The investor stipulates increase for himself from the sale of his goods and what relieves him of expenses in selling it. Or else he says, 'Barter with these goods and sell. When you are through, buy for me the like of my goods which I gave you. If there is increase, it is between you and me. 'It may happen that the investor gives the goods to the agent at a time in which they are in demand and expensive, and then the agent returns them while they are cheap and he might have bought them for only a third of the original price or even less than that. The agent then has a profit of half the amount by which the price of the wares has decreased as his portion of the profit. Or he might take the wares at a time when their price is low, and make use of them until he has a lot of money. Then those wares become expensive and their price rises when he returns them, so he buys them for all that he has so that all his work and concern have been in vain. This is an uncertain transaction and is not good. If, however, that is not known until it has happened, then the wage an agent in qirad would be paid for selling that, is looked at and he is given it for his concern. Then the

money is qirad from the day the money became cash and collected as coin and it is returned as a qirad like that."

Section: Hire in Qirad

Book 32, Number 32.6.8:

Yahya said that Malik spoke about a man who made a qirad loan to a man and he bought wares with it and transported them to a commercial centre. It was not profitable to sell them and the agent feared a loss if he sold them, so he hired transport to take them to another city, and he sold them there and made a loss, and the cost of the hire was greater than the principal.

Malik said, "If the agent can pay the cost of the hire from what the capital realized, his way is that. Whatever portion of the hire is not covered by the principal, the agent must pay it. The investor is not answerable for any of it. That is because the investor only ordered him to trade with the principal. The investor is not answerable for other than the principal. Had the investor been liable, it would have been an additional loss to him on top of the principal which he invested. The agent cannot put that on to the investor."

Section: Overstepping in Qirad

Book 32, Number 32.7.9:

Yahya said that Malik spoke about an investor who made a qirad loan to a man, who used it and made a profit. Then the man bought with all the profit a slave-girl and he had intercourse with her and she became pregnant by him, and so the capital decreased. Malik said, "If he has money, the price of the slave-girl is taken from his property, and the capital is restored by it. If there is something left over after the money is paid, it is divided between them according to the first qirad. If he cannot pay it, the slave-girl is sold so that the capital is restored from her price."

Malik spoke about an investor who made a qirad loan to a man, and the agent spent more than the amount of the qirad loan when buying goods with it and paid the increase from his own money. Malik said, "The investor has a choice if the goods are sold for a profit or loss or if they are not sold. If he wishes to take the goods, he takes them and pays the agent back what he put in for them. If the agent refuses, the investor is a partner for his share of the price in increase and decrease according to what the agent paid extra for them from himself."

Malik spoke about an agent who took qirad money from a man and then gave it to another man to use as a qirad without the consent of the investor. He said, "The agent is responsible for the property. If it is decreased, he is responsible for the loss. If there is profit, the investor has his stipulation of the profit, and then the agent has his stipulation of what remains of the money."

Malik spoke about an agent who exceeded and borrowed some of what he had of qirad in money and he bought goods for himself with it. Malik said, "If he has a

profit, the profit is divided according to the condition between them in the qirad. If he has a loss, he is responsible for the loss."

Malik said about an investor who paid qirad money to a man, and the agent borrowed some of the cash and bought goods for himself with it, "The investor of the capital has a choice. If he wishes, he shares with him in the goods according to the qirad, and if he wishes, he frees himself of them, and takes all of the principal back from the agent. That is what is done with some one who oversteps."

Section: Expenses Permitted in Qirad

Book 32, Number 32.8.10:

Yahya said that Malik spoke about an investor who made a qirad loan to a man.

He said, "When the investment is large, the travelling expenses of the agent are taken from it. He can use it to eat and clothe himself in an acceptable fashion according to the size of the investment. If it saves him trouble, he can take a wage from some of the capital, if it is large, and he cannot support himself. There are certain jobs which an agent or his like are not responsible for, amongst them are collecting debts, transporting the goods, loading up and so forth. He can hire from the capital someone to do that for him. The agent should not spend from the capital nor clothe himself from it while he resides with his family. It is only permitted for him to have expenses when he travels for the investment. The expenses are taken from the capital. If he is only trading with the property in the city in which he resides, he has no expenses from the capital and no clothing."

Malik spoke about an investor who paid qirad money to a man, and the agent went out with it and with his own capital. He said, "The expenses come from the qirad and from his own capital according to their proportions."

Section: Expenses Not Permitted in Qirad

Book 32, Number 32.9.11:

Yahya said that Malik spoke about an agent who had qirad money with him and he spent from it and clothed himself. He said, "He cannot give away any of it, and neither a beggar nor anyone else is to be given any of it and he does not pay anyone compensation from it. If he meets some people, and they bring out food and he brings out food, I hope that that will be permitted to him if he does not intend to bestow something on them. If he intends that or what is like that without the permission of the investor, he must get the sanction of the investor for it. If he sanctions it, there is no harm. If he refuses to sanction it, he must repay it with like if he has something which is suitable as compensation."

Section: Debts in Qirad

Book 32, Number 32.10.12:

Yahya said that Malik said, "The generally agreed on way of doing things among us about an investor who pays qirad money to an agent to buy goods, and the agent then sells the goods for a price to be paid later, and has a profit in the transaction, then the agent dies before he has received payment, is that if his heirs want to take that money, they have their father's stipulated portion from the profit. That is theirs if they are trustworthy to take the payment. If they dislike to collect it from the debtor and they refer him to the investor, they are not obliged to collect it and there is nothing against them and nothing for them by their surrendering it to the investor. If they do collect it, they have a share of it and expenses like their father had. They are in the position of their father. If they are not trustworthy to do so, they can bring someone reliable and trustworthy to collect the money. If he collects all the capital and all the profit, they are in the position of their father."

Malik spoke about an investor who paid qirad money to a man provided that he used it and was responsible for any delayed payment for which he sold it. He said, "This is obligatory on the agent. If he sells it for delayed payment, he is responsible for it."

Section: Goods in the Qirad

Book 32, Number 32.11.13:

Yahya said that Malik spoke about an investor who gave qirad money to a man, and then the man sought a loan from the investor or the investor borrowed money from the agent, or the investor left goods with the agent to sell for him, or the investor gave the agent dinars to buy goods with. Malik said, "There is no harm if the investor leaves his goods with him knowing that if the agent did not have his money and he had asked a similar thing of him, he would have still done it because of the brotherhood between them or because it would have been no bother to him and that had the agent refused that, he would not have removed his capital from him. Or if the agent had borrowed from the investor or carried his goods for him and he knew that if the investor had not had his capital with him, he would have still done the same for him, and had he refused that to him, he would not have returned his capital to him. If that is true between both of them and it is in the way of a favour between them and it is not a condition in the terms of the qirad, it is permitted and there is no harm in it. If a condition comes into it, or it is feared that the agent is only doing it for the investor in order to safeguard the capital in his possession, or the investor is only doing it because the agent has taken his capital and will not return it to him, that is not permitted in qirad and it is part of what the people of knowledge forbid.' "

Section: Loans in Qirad

Book 32, Number 32.12.14:

Yahya said that Malik spoke about a man who loaned another man money and then the debtor asked him to leave it with him as a qirad. Malik said, "I do not like that unless he takes his money back from him, and then pays it to him as a qirad if he wishes or if he wishes keep it."

Malik spoke about an investor who paid a man qirad money and the man told him

that it was collected with him and asked him to write it for him as a loan. He said, "I do not like that unless he takes his money from him and then lends it to him or keeps it as he wishes. That is only out of fear that he has lost some of it, and wants to defer it so that he can make up what has been lost of it. That is disapproved of and is not permitted and it is not good."

Section: Accounting in Qirad

Book 32, Number 32.13.15:

Yahya said that Malik spoke about an investor paying qirad money to an agent who made a profit and then wanted to take his share of the profit and the investor was away. He said, "He should not take any of it unless the investor is present. If he takes something from it, he is responsible for it until it is accounted for in the division of the capital."

Malik said, "It is not permitted for the parties involved in a qirad to account and divide property which is away from them until the capital is present, and the investor is given the principal in full. Then they divide the profit into their agreed portions."

Malik spoke about a man taking qirad money, and buying goods with it while he had a debt. His creditors sought and found him while he was in a city away from the investor, and he had profitable merchandise whose good quality was clear. They wanted him to sell the merchandise for them so that they could take his share of the profit. Malik said, "None of the profit of the qirad is taken until the investor is present. He takes his principal and then the profit is divided mutually between them."

Malik spoke about an investor who put qirad money with an agent and he used it and had a profit. Then the principal was set aside and the profit divided. He took his share and added the share of the investor to his principal in the presence of witnesses he had called. Malik said, "It is not permitted to divide the profit unless the investor is present. If he has taken something here turns it until the investor has received the principal in full. Then what remains is divided into their respective portions."

Malik spoke about an investor who put qirad money with an agent. The agent used it and then came to the investor and said, "This is your portion of the profit, and I have taken the like of it for myself, and I have retained your principal in full." Malik said, "I do not like that, unless all the capital is present, the principal is there and he knows that it is complete and he receives it. Then they divide the profit between them. He returns the principal to him if he wishes, or he keeps it. The presence of the principal is necessary out of fear that the agent might have lost some of it, and so may want it not to be removed from him and to keep it in his hand."

Section: A General View of Qirad

Book 32, Number 32.14.16:

Yahya said that Malik spoke about an investor who put qirad money with an agent who bought goods with it, and the investor told him to sell them. The agent said that

he did not see any way to sell at that time and they quarrelled about it. He said, "One does not look at the statement of either of them. The people of experience and insight concerning such goods are asked about these goods. If they can see anyway of selling them they are sold for them. If they think it is time to wait, they should wait."

Malik spoke about a man who took qirad money from an investor and used it and when the investor asked him for his money, he said that he had it in full. When he held him to his settlement he admitted that "Such-and-such of it was lost with me," and he named an amount of money. "I told you that so that you would leave it with me." Malik said, "He does not benefit by denying it after he had confirmed that he had it all . He is answerable by his confession against himself unless he produces evidence about the loss of that property which confirms his statement. If he does not produce an acceptable reason he is answerable by his confession, and his denial does not avail him."

Malik said, "Similarly, had he said, 'I have had such-and-such a profit from the capital,' and then the owner of the capital asked him to pay him the principal and his profit, and he said that he had not had any profit in it and had said that only so it might be left in his possession, it does not benefit him. He is taken to account for what he affirmed unless he brings acceptable proof of his word, so that the first statement is not binding on him."

Malik spoke about an investor who put qirad money with an agent who made a profit with it. The agent said, "I took the qirad from you provided that I would have two-thirds." The owner of the capital says, "I gave you a qirad provided that you had a third." Malik said, "The word is the word of the agent, and he must take an oath on that if what he says resembles the known practice of qirad or is close to it. If he brings a matter which is unacceptable and people do not make qirads like that, he is not believed, and it is judged to be according to how a qirad like it would normally be."

Malik spoke about a man who gave a man one hundred dinars as a qirad. He bought goods with it and then went to pay the one hundred dinars to the owner of the goods and found that they had been stolen. The investor says, "Sell the goods. If there is anything over, it is mine. If there is a loss, it is against you because you lost it." The agent says, "Rather you must fulfil what the seller is owed. I bought them with your capital which you gave me." Malik said, "The agent is obliged to pay the price to the seller and the investor is told, 'If you wish, pay the hundred dinars to the agent and the goods are between you. The qirad is according to what the first hundred was based on. If you wish, you are free of the goods.' If the hundred dinars are paid to the agent, it is a qirad according to the conditions of the first qirad. If he refuses, the goods belong to the agent and he must pay their price."

Malik spoke about two people in a qirad who settled up and the agent still had some of the goods which he used - threadbare cloth or a waterskin or the like of that. Malik said, "Any of that which is insignificant is of no importance and belongs to the agent. I have not heard anyone give a decision calling for the return of that. Anything which has a price is returned. If it is something which has value like an animal, camel, coarse cloth or the like of that which fetches a price, I think that he should return

what he has remaining of such things unless the owner overlooks it."

Translation of Malik's Muwatta, Book 33:

Sharecropping

Section: Sharecropping

Book 33, Number 33.1.1:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab that the Messenger of Allah, may Allah bless him and grant him peace, said to the jews of Khaybar on the day of the conquest of Khaybar, "I confirm you in it as long as Allah, the Mighty, the Majestic, establishes you in it, provided that the fruits are divided between us and you." Said continued, "The Messenger of Allah, may Allah bless him and grant him peace, used to send Abdullah ibn Rawaha, to assess the division of the fruit crop between him and them, and he would say, 'If you wish, you can buy it back, and if you wish, it is mine.' They would take it."

Book 33, Number 33.1.2:

Malik related to me from Ibn Shihab from Sulayman ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, used to send Abdullah ibn Rawaha to Khaybar, to assess the division of the fruit crop between him and the jews of Khaybar.

The jews collected for Abdullah pieces of their women's jewellery and said to him, "This is yours. Go light on us and don't be exact in the division!"

Abdullah ibn Rawaha said, "O tribe of jews! By Allah! You are among the most hateful to me of Allah's creation, but it does not prompt me to deal unjustly with you. What you have offered as a bribe is forbidden. We will not touch it." They said, "This is what supports the heavens and the earth."

Malik said, "If a share-cropper waters the palms and between them there is some uncultivated land, whatever he cultivates in the uncultivated land is his."

Malik said, "If the owner of the land makes a condition that he will cultivate the uncultivated land for himself, that is not good because the sharecropper does the watering for the owner of the land and so he increases the owner of the land in property (without any return for himself)."

Malik said, "If the owner stipulates that the fruit crop is to be shared between them, there is no harm in that if all the maintenance of the property - seeding, watering and case, etc. - are the concern of the sharecropper.

If the share-cropper stipulates that the seeds are the responsibility of the owner of the property - that is not permitted because he has stipulated an outlay against the owner

of the property. Share-cropping is conducted on the basis that all the care and expense is outlayed by the share-cropper, and the owner of the property is not obliged anything. This is the accepted method of share-cropping."

Malik spoke about a spring which was shared between two men, and then the water dried up and one of them wanted to work on the spring and the other said, "I don't have the means to work on it." He said, "Tell the one who wants to work on the spring, 'Work and expend. All the water will be yours. You will have its water until your companion brings you half of what you have spent. If he brings you half of what you have spent, he can take his share of the water.' The first one is given all the water, because he has spent on it, and if he does not reach anything by his work, the other has not incurred any expense."

Malik said, "It is not good for a share-cropper not to expend anything but his labour and to be hired for a share of the fruit while all the expense and work is incurred by the owner of the garden, because the share-cropper does not know what the exact wage is going to be for his labour, whether it will be little or great."

Malik said, "No-one who lends a qirad or grants a share-cropping contract, should exempt some of the wealth, or some of the trees from his agent, because, by that, the agent becomes his hired man. He says, 'I will grant you a share-crop provided that you work for me on such-and-such a palm - water it and tend it. I will give you a qirad for such-and-such money provided that you work for me with ten dinars. They are not part of the qirad I have given you.' That must not be done and it is not good. This is what is done in our community."

Malik said, "The sunna about what is permitted to an owner of a garden in share-cropping is that he can stipulate to the share-cropper the maintenance of walls, cleaning the spring, sweeping the irrigation canals, pollinating the palms, pruning branches, harvesting the fruit and such things, provided that the share-cropper has a share of the fruit fixed by mutual agreement. However, the owner cannot stipulate the beginning of new work which the agent will start digging a well, raising the source of a well, instigating new planting, or building a cistern whose cost is great. That is as if the owner of the garden said to a certain man, 'Build me a house here or dig me a well or make a spring flow for me or do some work for me for half the fruit of this garden of mine,' before the fruit of the garden is sound and it is halal to sell it. This is the sale of fruit before its good condition is clear. The Messenger of Allah, may Allah bless him and grant him peace, forbade fruit to be sold before its good condition became clear."

Malik said, "If the fruits are good and their good condition is clear and selling them is halal and then the owner asks a man to do one of those jobs for him, specifying the job, for half the fruit of his garden, for example, there is no harm in that. He has hired the man for something recognised and known. The man has seen it and is satisfied with it.

"As for share-cropping, if the garden has no fruit or little or bad fruit, he has only that. The labourer is only hired for a set amount, and hire is only permitted on these terms. Hire is a type of sale. One man buys another man's work from him. It is not good if uncertainty enters into it because the Messenger of Allah, may Allah bless

him and grant him peace, forbade uncertain transactions."

Malik said, "The sunna in share-cropping with us is that it can be practised with any kind of fruit tree, palm, vine, olive tree, pomegranate, peach, and soon. It is permitted, and there is no harm in it provided that the owner of the property has a share of the fruit: a half or a third or a quarter or whatever."

Malik said, "Share-cropping is also permitted in any crop which emerges from the earth if it is a crop which is picked, and its owner cannot water, work on it and tend it.

"Share-cropping becomes reprehensible in anything in which share-cropping is normally permitted if the fruit is sound and the good condition is clear and it is halal to sell it. He must share-crop in it the next year. If a man waters fruit whose good condition is clear and it is halal to sell it, and he picks it for the owner, for a share of the crop, it is not sharecropping. It is similar to him being paid in dirhams and dinars. Share-cropping is what is between pruning the palms and when the fruit becomes sound and its sale is halal."

Malik said, "If some one makes a share-cropping contract for fruit trees before the condition becomes clear and its sale is halal, it is share-cropping and is permitted . "

Malik said, "Uncultivated land must not be involved in a share-cropping contract. That is because it is halal for the owner to rent it for dinars and dirhams or the equivalent for an accepted price."

Malik said, "As for a man who gives his uncultivated earth for a third or a fourth of what comes out of it, that is an uncertain transaction because crops may be scant one time and plentiful another time. It may perish completely and the owner of the land will have abandoned a set rent which would have been good for him to rent the land for. He takes an uncertain situation, and does not know whether or not it will be satisfactory. This is disapproved. It is like a man having someone travel for him for a set amount, and then saying, 'Shall I give you a tenth of the profit of the journey as your wage?' This is not halal and must not be done."

Malik summed up,"A man must not hire out himself or his land or his ship unless for a set amount."

Malik said, "A distinction is made between sharecropping in palms and in cultivated land because the owner of the palms cannot sell the fruit until its good condition is clear. The owner of the land can rent it when it is uncultivated with nothing on it."

Malik said, "What is done in our community about palms is that they can also be share-cropped for three and four years, and less or more than that."

Malik said, "That is what I have heard. Any fruit trees like that are in the position of palms. Contracts for several years are permissible for the sharecropper as they are permissible in the palms."

Malik said about the owner, "He does not take anything additional from the share-cropper in the way of gold or silver or crops which increases him. That is not

good. The share-cropper also must not take from the owner of the garden anything additional which will increase him of gold, silver, crops or anything. Increase beyond what is stipulated in the contract is not good. It is also not good for the lender of a qirad to be in this position. If such an increase does enter share-cropping or quirad, it becomes by it hire. It is not good when hire enters it. Hire must never occur in a situation which has uncertainty in it."

Malik spoke about a man who gave land to another man in a share-cropping contract in which there were palms, vines, or the like of that of fruit trees and there was also uncultivated land in it. He said, "If the uncultivated land is secondary to the fruit trees, either in importance or in size of land, there is no harm in share-cropping. That is if the palms take up two-thirds of the land or more, and the uncultivated land is a third or less. This is because when the land that the fruit trees take up is secondary to the uncultivated land and the cultivated land in which the palms, vines or the like is a third or less, and the uncultivated land is two-thirds or more, it is permitted to rent the land and share-cropping in it is haram."

"One of the practices of people is to give out sharecropping contracts on property with fruit trees when there is uncultivated land in it, and to rent land while there are fruit trees on it, just as a Qur'an or sword which has some embellishment on it of silver is sold for silver, or a necklace or ring which have stones and gold in them are sold for dinars. These sales continue to be permitted. People buy and sell by them. Nothing described or instituted has come on that which if exceeded, makes it haram, and if fallen below makes it halal. What is done in our community about that is what people practise and permit among themselves. That is, if the gold or silver is secondary to what it is incorporated in, it is permitted to sell it. That is, if the value of the blade, the Qur'an, or the stones is two-thirds or more, and the value of the decoration is one-third or less."

Section: The Condition About Slaves in Sharecropping

Book 33, Number 33.2.3:

Yahya said that Malik said, "The best of what has been heard about a sharecropper stipulating on the owner of the property the inclusion of some slave workers, is that there is no harm in that if they are workers that come with the property. They are like the property. There is no profit in them for the share-cropper except to lighten some of his burden. If they did not come with the property, his toil would be harder. It is like share-cropping land with a spring or land with a watering trough. You will not find anyone who receives the same share for share-cropping two lands which are equal in property and yield, when one property has a constant plentiful spring and the other has a watering trough, because of the lightness of working land with a spring, and the hardship of working land with a watering trough."

Malik added, "That is what is done in our community."

Malik said, "A share-cropper cannot employ workers from the property in other work, and he cannot make that a stipulation with the one who gives him the share-cropping contract. Nor is it permitted to one who share-crops to stipulate on

the owner of the property inclusion of slaves for use in the garden who are not in it when he makes the share-cropping contract."

"Nor must the owner of the property stipulate on the one who uses his property for share-cropping that he take any of the slaves of the property and remove him from the property. The share-cropping of property is based on the state which it is currently in."

"If the owner of the property wants to remove one of the slaves of the property, he removes him before the share-cropping, or if he wants to put someone into the property, he does it before the share-cropping. Then he grants the share-cropping contract after that if he wishes. If any of the slaves die or go off or become ill, the owner of the property must replace them."

Translation of Malik's Muwatta, Book 34:

Renting Land

Section: Renting Land

Book 34, Number 34.1.1:

Yahya related to me from Malik from Rabia ibn Abd ar-Rahman from Handhala ibn Qays az-Zuraqi from Rafi ibn Khadij that the Messenger of Allah, may Allah bless him and grant him peace, forbade renting out fields.

Handhala said, "I asked Rafi ibn Khadij, about paying in gold and silver, and he said, 'There is no harm in it.' "

Book 34, Number 34.1.2:

Malik related to me that Ibn Shihab said, "I asked Said ibn al-Musayyab about renting land for gold or silver, and he said, 'There is no harm in it.' "

Book 34, Number 34.1.3:

Malik related to me from Ibn Shihab that he asked Salim ibn 'Abdullah ibn Umar about renting out fields. He said, "There is no harm in it for gold or silver." Ibn Shihab said, "I said to him, 'What do you think of the hadith which is mentioned from Rafi ibn Khadij?'" He said, "Rafi has exaggerated. If I had a field, I would rent it out."

Book 34, Number 34.1.41:

Malik related to me that he had heard that Abd ar-Rahman ibn Awf rented land, and he continued to have it in his possession until he died. His son said, "I thought that it was ours because of the length of time which it had remained in his hands, until he mentioned it to us at his death. He ordered us to pay some rent which he owed in gold or silver."

Book 34, Number 34.1.5:

Malik related to me from Hisham ibn Urwa that his father used to rent out his land for gold and silver.

Malik was asked about a man who rented his field for 100 sa of dates or part of its produce of wheat or from other than its produce. He disapproved of that.

Translation of Malik's Muwatta, Book 35:

Pre-emption in Property

Section: Cases in which Pre-emption is Possible

Book 35, Number 35.1.1:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab and from Abu Salama ibn Abd ar-Rahman ibn Awf that the Messenger of Allah, may Allah bless him and grant him peace, decreed for partners the right of preemption in property which had not been divided up. When boundaries had been fixed between them, then there was no right of pre-emption.

Malik said, "That is the sunna about which there is no dispute among us."

Book 35, Number 35.1.2:

Malik said that he heard that Said ibn al-Musayyab, when asked about pre-emption and whether there was a sunna in it, said, "Yes. Pre-emption is in houses and land, and it is only between partners."

Book 35, Number 35.1.3:

Malik related to me that he heard the like of that from Sulayman ibn Yasar.

Malik spoke about a man who bought out one of the partners in a shared property, by paying the man with an animal, a slave, a slave-girl, or the equivalent of that in goods. Then another partner decided to exercise his right of pre-emption after that, and he found that the slave or slave-girl had died, and no one knew what her value had been. The buyer claimed, "The value of the slave or slave-girl was 100 dinars." The partner with the right of pre-emption claimed, "The value was 50 dinars."

Malik said, "The buyer takes an oath that the value of what he payed was 100 dinars. Then if the one with the right of pre-emption wishes, he can compensate him, or else he can leave it, unless he can bring a clear proof that the slave or slave-girl's value is less than what the buyer said. If someone gives away his portion of a shared house or land and the recipient repays him for it by cash or goods, the partners can take it by pre-emption if they wish and pay off the recipient the value of what he gave in dinars or dirhams. If someone makes a gift of his portion of a shared house or land, and does not take any remuneration and does not seek to, and a partner wants to take it for its value, he cannot do so as long as the original partner has not been given recompense for it. If there is any recompense, the one with the right of pre-emption can have it for the price of the recompense."

Malik spoke about a man who bought into a piece of shared land for a price on credit, and one of the partners wanted to possess it by right of pre-emption . Malik said, "If it seems likely that the partner can meet the terms, he has right of pre-emption for the same credit terms. If it is feared that he will not be able to meet the terms, but he can bring a wealthy and reliable guarantor of equal standing to the one who bought into the land, he can also take possession."

Malik said, "A person's absence does not sever his right of pre-emption. Even if he is a way for a long time, there is no time limit after which the right of preemption is cut off."

Malik said that if a man left land to a number of his children, then one of them who had a child died and the child of the deceased sold his right in that land, the brother of the seller was more entitled to pre-empt him than his paternal uncles, the partners of his father.

Malik said, "This is what is done in our community."

Malik said, "Pre-emption is shared between partners according to their existing shares. Each of them takes according to his portion. If it is small, he has little. If it is great, it is according to that. That is if they are tenacious and contend with each other about it."

Malik said, "As for a man who buys out the share of one of his partners, and one of the other partners says, 'I will take a portion according to my share,' and the first partner says, 'If you wish to take all the preemption, I will give it up to you. If you wish to leave it, then leave it.' If the first partner gives him the choice and hands it over to him, the second partner can only take all the pre-emption or give it back. If he takes it, he is entitled to it. If not, he has nothing."

Malik spoke about a man who bought land, and developed it by planting trees or digging a well etc., and then someone came, and seeing that he had a right in the land, wanted to take possession of it by pre-emption. Malik said "He has no right of preemption unless he compensates the other for his expenditure. If he gives him the price of what he has developed, he is entitled to pre-emption . If not, he has no right in it."

Malik said that someone who sold off his portion of a shared house or land and then, on learning that some one with a right of pre-emption was to take possession by that right, asked the buyer to revoke the sale, and he did so, did not have the right to do that. The pre-emptor has more right to the property for the price for which he sold it.

In the case of some one who bought along with a section of a shared house or land, an animal and goods (that were not shared), so that when any one demanded his right of pre-emption in the house or land he said, "Take what I have bought altogether, for I bought it altogether," Malik said, "The pre-emptor need only take possession of the house or land. Each thing the man bought is assessed according to its share of the lump sum the man paid. Then the pre-emptor takes possession of his right for a price which is appropriate on that basis. He does not take any animals or goods unless he wants to do that."

Malik said, "If someone sells a section of shared land, and one of those who have the right of preemption surrenders it to the buyer and another refuses to do other than take his pre-emption, the one who refuses to surrender has to take all the preemption, and he cannot take according to his right and leave what remains.

In the case where one of a number of partners in one house sold his share when all his partners were away except for one man, the one present was given the choice of either taking the pre-emption or leaving it, and he said, 'I will take my portion and leave the portions of my partners until they are present. If they take it, that is that. If they leave it, I will take all the pre-emption,' Malik said, 'He can only take it all or leave it. If his partners come, they can take from him or leave it as they wish. If this is offered to him and he does not accept, I think that he has no pre-emption.' "

Section: Cases in Which Pre-Emption Is Not Possible

Book 35, Number 35.2.4:

Yahya said that Malik related from Muhammad ibn Umara from Abu Bakr ibn Hazm that Uthman ibn Affan said, "When boundaries are fixed in land, there is no pre-emption in it. There is no pre-emption in a well or in male palm trees. "

Malik said, "This is what is done in our community."

Malik said, "There is no pre-emption in a road, whether or not it is practical to divide it."

Malik said, "What is done in our community is that there is no pre-emption in the courtyard of a house, whether or not it is practical to divide it."

Malik spoke about a man who bought into a shared property provided that he had the option of withdrawal and the partners of the seller wanted to take what their partner was selling by pre-emption before the buyer had exercised his option. Malik said, "They cannot do that until the buyer has taken possession and the sale is confirmed for him. When the sale is confirmed, they have the right of pre-emption."

Malik spoke about a man who bought land and it remained in his hands for some time. Then a man came and saw that he had a share of the land by inheritance. Malik said, "If the man's right of inheritance is established, he also has a right of preemption. If the land has produced a crop, the crop belongs to the buyer until the day when the right of the other is established, because he has tended what was planted against being destroyed or being carried away by a flood."

Malik continued, "If the time has been long, or the witnesses are dead or the seller has died, or the buyer has died, or they are both alive and the basis of the sale and purchase has been forgotten because of the length of time, pre-emption is discontinued. A man only takes his right by inheritance which has been established for him. If his situation differs from this, because the sale transaction is recent and he sees that the seller has concealed the price in order to sever his right of pre-emption, the value of the land is estimated, and he buys the land for that price by his right of pre-emption. Then the buildings, plants, or structures which are extra to the land are

looked at, so he is in the position of some one who bought the land for a known price, and then after that built on it and planted. The owner of pre-emption takes possession after that is included."

Malik said, "Pre-emption is applied to the property of the deceased as it is applied to the property of the living. If the family of the deceased fear to break up the property of the deceased, then they share it and sell it, and they have no pre-emption in it."

Malik said, "There is no pre-emption among us in a slave or a slave-girl or a camel, a cow, sheep, or any animal, nor in clothes or a well which does not have any uncultivated land around it. Pre-emption is in what can be usefully divided, and in land in which boundaries occur. As for what cannot be usefully divided, there is no pre-emption in it."

Malik said, "Some one who buys land in which people who are present have a right of pre-emption, refers them to the Sultan and either they claim their right or the Sultan surrenders it to him. If he were to leave them, and not refer their situation to the Sultan and they knew about his purchase, and then they left it until a long time had passed and then came demanding their pre-emption, I do not think that they would have it."

Translation of Malik's Muwatta, Book 36:

Judgements

Section: Stimulation of Desire to Judge Correctly

Book 36, Number 36.1.1:

Yahya related to me from Malik from Hisham ibn Urwa from his father from Zaynab bint Abi Salama from Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, that the Messenger of Allah, may Allah bless him and grant him peace, said, "I am but a man to whom you bring your disputes. Perhaps one of you is more eloquent in his proof than the other, so I give judgement according to what I have heard from him. Whatever I decide for him which is part of the right of his brother, he must not take any of it, for I am granting him a portion of the Fire."

Book 36, Number 36.1.2:

Malik related to me from Yahya ibn Said from Said ibn al-Musayyab that Umar ibn al-Khattab had a dispute brought to him between a muslim and a jew. Umar saw that the right belonged to the jew and decided in his favour. The jew said to him, "By Allah! You have judged correctly." So Umar ibn al-Khattab struck him with a whip and said, "How can you be sure." The jew said to him, "We find that there is no judge who judges correctly but that there is an angel on his right side and an angel on his left side who guide him and give him success in the truth as long as he is with the truth. When he leaves the truth, they rise and leave him."

Section: Giving Testimony

Book 36, Number 36.2.3:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Muhammad ibn Amr ibn Hazm from his father from Abdullah ibn Amr ibn Uthman from Abu Amra al-Ansari from Zayd ibn Khalid al-Juhani that the Messenger of Allah, may Allah bless him and grant him peace, said, "Shall I not tell you who is the best of witnesses? The one who brings his testimony before he is asked for it, or tells his testimony before he is asked for it."

Book 36, Number 36.2.4:

Malik related to me that Rabia ibn Abi Abd ar-Rahman said, "An Iraqi man came before Umar ibn al-Khattab and said, 'I have come to you because of a matter which has no beginning and no end.' Umar said, 'What is it?' The man said, 'False testimony has appeared in our land.' Umar said, 'Is that so?' He said, 'Yes.' Umar said, 'By

Allah! A man is not detained in Islam without just witnesses.' "

Malik related to me that Umar ibn al-Khattab said, "The testimony of some one known to bear a grudge or to be unreliable is not accepted."

Section: Judgement on Testimony of Recipients of Hadd-Punishments

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Book 36, Number 36.3.4a:

Yahya said from Malik that he heard from Sulayman ibn Yasar and others that when they were asked whether the testimony of a man flogged for a hadd crime was permitted, they said, "Yes, when repentance (tawba) appears from him."

Malik related to me that he heard Ibn Shihab being asked about that and he said the like of what Sulayman ibn Yasar said.

Malik said, "That is what is done in our community. It is by the word of Allah, the Blessed, the Exalted, 'And those who accuse women who are muhsan, and then do not bring four witnesses, flog them with eighty lashes, and do not accept any testimony of theirs ever. They indeed are evil-doers, save those who turn in tawba after that and make amends. Allah is Forgiving, Merciful.' " (Sura 24 ayat 4).

Section: Judgement Based on Oaths with One Witness

Book 36, Number 36.4.5:

Yahya said, "Malik said from Jafar ibn Muhammad from his father that the Messenger of Allah, may Allah bless him and grant him peace, pronounced judgement on the basis of an oath with one witness."

Book 36, Number 36.4.6:

From Malik from Abu'z-Zinad that Umar ibn Abd al-Aziz wrote to Abd al-Hamid ibn Abd ar-Rahman ibn Zayd ibn al-Khattab who was the governor of Kufa, "Pronounce judgement on the basis of an oath with one witness."

Book 36, Number 36.4.7:

Malik related to me that he heard that Abu Salama ibn Abd ar-Rahman and Sulayman ibn Yasar were both asked, "Does one pronounce judgement on the basis of an oath with one witness?" They both said, "Yes."

Malik said, "The precedent of the sunna in judging by an oath with one witness is that if the plaintiff takes an oath with his witness, he is confirmed in his right. If he draws back and refuses to take an oath, the defendant is made to take an oath. If he takes an oath, the claim against him is dropped. If he refuses to take an oath, the claim is confirmed against him."

Malik said, "This procedure pertains to property cases in particular. It does not occur in any of the hadd-punishments, nor in marriage, divorce, freeing slaves, theft or

slander. If some one says, 'Freeing slaves comes under property,' he has erred. It is not as he said. Had it been as he said, a slave could take an oath with one witness, if he could find one, that his master had freed him.

"However, when a slave lays claim to a piece of property, he can take an oath with one witness and demand his right as the freeman demands his right."

Malik said, "The sunna with us is that when a slave brings somebody who witnesses that he has been set free, his master is made to take an oath that he has not freed him, and the slave's claim is dropped."

Malik said, "The sunna about divorce is also like that with us. When a woman brings somebody who witnesses that her husband has divorced her, the husband is made to take an oath that he has not divorced her. If he takes the oath, the divorce does not proceed . "

Malik said, "There is only one sunna of bringing a witness in cases of divorce and freeing a slave. The right to make an oath only belongs to the husband of the woman, and the master of the slave. Freeing is a hadd matter, and the testimony of women is not permitted in it because when a slave is freed, his inviolability is affirmed and the hadd punishments are applied for and against him. If he commits fornication and he is a muhsan, he is stoned. If he kills a slave, he is killed for it. Inheritance is established for him, between him and whoever inherits from him. If somebody disputes this, arguing that if a man frees his slave and then a man comes to demand from the master of the slave payment of a debt, and a man and two women testify to his right, that establishes the right against the master of the slave so that his freeing him is cancelled if he only has the slave as property, inferring by this case that the testimony of women is permitted in cases of setting free. The case is not as he suggests (i.e. it is a case of property not freeing). It is like a man who frees his slave, and then the claimant of a debt comes to the master and takes an oath with one witness, demanding his right. By that, the freeing of the slave would be cancelled. Or else a man comes who has frequent dealings and transactions with the master of the slave. He claims that he is owed money by the master of the slave. Someone says to the master of the slave, 'Take an oath that you don't owe what he claims'. If he draws back and refuses to take an oath, the one making the claim takes an oath and his right against the master of the slave is confirmed. That would cancel the freeing of the slave if it is confirmed that property is owed by the master."

Malik said, "It is the same case with a man who marries a slave-girl and then the master of the slave-girl comes to the man who has married her and claims, 'You and so-and-so have bought my slave-girl from me for such an amount of dinars. The husband of the slave-girl denies that. The master of the slave-girl brings a man and two women and they testify to what he has said. The sale is confirmed and his claim is considered true. So the slave-girl is haram for her husband and they have to separate, even though the testimony of women is not accepted in divorce."

Malik said, "It is also the same case with a man who accuses a free man, so the hadd falls on him. A man and two women come and testify that the one accused is a slave. That would remove the hadd from the accused after it had befallen him, even though the testimony of women is not accepted in accusations involving hadd punishments."

Malik said, "Another similar case in which judgement appears to go against the precedent of the sunna is that two women testify that a child is born alive and so it is necessary for him to inherit if a situation arises where he is entitled to inherit, and the child's property goes to those who inherit from him, if he dies, and it is not necessary that the two women witnesses should be accompanied by a man or an oath even though it may involve vast properties of gold, silver, live-stock, gardens and slaves and other properties. However, had two women testified to one dirham or more or less than that in a property case, their testimony would not affect anything and would not be permitted unless there was a witness or an oath with them."

Malik said, "There are people who say that an oath is not acceptable with only one witness and they argue by the word of Allah the Blessed, the Exalted, and His word is the Truth, 'And call in to witness two witnesses, men; or if the two be not men, then one man and two women, such witnesses as you approve of.' (Sura 2 ayat 282). Such people argue that if he does not bring one man and two women, he has no claim and he is not allowed to take an oath with one witness."

Malik said, "Part of the proof against those who argue this, is to reply to them, 'Do you think that if a man claimed property from a man, the one claimed from would not swear that the claim was false?' If he swears, the claim against him is dropped. If he refuses to take an oath, the claimant is made to take an oath that his claim is true, and his right against his companion is established. There is no dispute about this with any of the people nor in any country. By what does he take this? In what place in the Book of Allah does he find it? So if he confirms this, let him confirm the oath with one witness, even if it is not in the Book of Allah, the Mighty, the Majestic! It is enough that this is the precedent of the sunna. However, man wants to recognise the proper course of action and the location of the proof. In this there is a clarification for what is obscure about that, if Allah ta'ala wills."

Section: Judgement on a Deceased with a Debt against Him and a Debt for Him, and only One Witness

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Book 36, Number 36.5.7a:

Yahya said that Malik spoke about a man who died and had a debt owing to him and there was one witness, and some people had a debt against him and they had only one witness, and his heirs refused to take an oath on their rights with their witness. He said, "The creditors take an oath and take their rights. If there is anything left over, the heirs do not take any of it. That is because the oaths were offered to them before and they abandoned them, unless they say, 'We did not know that our companion had extra,' and it is known that they only abandoned the oaths because of that. I think that they should take an oath and take what remains after his debt."

Section: Judgement on Claims

Book 36, Number 36.6.8:

Yahya said, "Malik said about Jamil ibn Abd ar-Rahman al-Muadhdin that he was

present with Umar ibn Abd al-Aziz when he was judging between people. If a man came to him with a claim against a man, he examined whether or not there were frequent transactions and dealings between them. If there were, the defendant could make an oath. If there was nothing of that nature he did not accept an oath from him."

Malik summed up, "What is done in our community is that if some one makes a claim against a man, it is examined. If there are frequent transactions and dealings between them, the defendant is made to take an oath. If he takes an oath, the claim against him is dropped. If the defendant refuses to take an oath, and returns the oath to the claimant, the one claiming his right takes an oath and takes his due."

Section: Judgement on Testimony of Children

Book 36, Number 36.7.9:

Yahya said, "Malik said from Hisham ibn Urwa that Abdullah ibn az-Zubayr gave judgment based on the testimony of children concerning the injuries between them."

Malik said, "The generally agreed on way of doing things in our community is that the testimony of children is permitted concerning injuries between them. It is not accepted about anything else. It is only permitted between them if they testify before they leave the scene of the incident and have been deceived or instructed. If they leave the scene, they have no testimony unless they call just witnesses to witness their testimony before they leave."

Section: Perjury on the Mimbar of the Prophet, may Allah Bless Him and Grant Him Peace

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Book 36, Number 36.8.10:

Yahya said, Malik related to us from Hisham ibn Hisham ibn Utba ibn Abi Waqqas from Abdullah ibn Nistas from Jabir ibn Abdullah al-Ansari that the Messenger of Allah, may Allah bless him and grant him peace, said, 'If someone swears a false oath near this mimbar of mine, he will take his seat in the fire.' "

Book 36, Number 36.8.11:

Malik related to me from al-Ala ibn Abd ar-Rahman from Mabad ibn Kab as-Salami from his brother Abdullah ibn Kab ibn Malik al-Ansari from Abu Umama that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever cuts off the right of a muslim man by his oath, Allah forbids him the Garden and obliges the Fire for him." They said, "Even if it is something insignificant, Messenger of Allah?" He said, "Even if it is a tooth-stick, even if it is a tooth-stick," repeating it three times.

Section: Taking Oaths on the Mimbar in General

Book 36, Number 36.9.12:

Yahya said that Malik had said from Da'ud ibn al-Husayn that he heard Abu Ghatafan ibn Tarif al-Muriyi say, "Zayd ibn Thabit al-Ansari and Ibn Muti had a dispute about a house which they shared. They went to Marwan ibn al-Hakam who was the Amir of Madina. Marwan decided that Zayd ibn Thabit must take an oath on the mimbar. Zayd ibn Thabit said, 'I swear to it where I am.' Marwan said, 'No, by Allah! only in the place of sorting out claims (i.e. the mimbar).' Zayd ibn Thabit began to take an oath that his right was true, and he refused to take an oath near the mimbar. Marwan ibn al-Hakam began to wonder at that."

Malik said, "I do not think that anyone should be made to take an oath near the mimbar for less than a fourth of a dinar, and that is three dirhams."

Section: Prohibition against Forfeiting Pledges Given on Security

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Book 36, Number 36.10.13:

Yahya said, "Malik related to us from Ibn Shihab from Sa'id ibn al-Musayyab that the Messenger of Allah, may Allah bless him and grant him peace, said, 'The pledge given as security is not forfeited.' "

Malik said, "The explanation of that according to what we think - and Allah knows best - is that a man gives a pledge to somebody in security for something. The pledge is superior to that for which he pawned it. The pledger says to the pawn-broker, 'I will bring you your due, after such-and-such a time. If not, the pledge is yours for what it was pawned for.' "

Malik said, "This transaction is not good and it is not halal. This is what was forbidden. If the owner brings what he pledged it for after the period, it is his. I think that the time condition is void."

Section: Judgement on Pledging Fruit and Animals as Security

Book 36, Number 36.11.13a:

Yahya said, "I heard Malik say that if a man pledges his garden for a stated period and the fruits of that garden are ready before the end of that period, the fruits are not included in the pledge with the real estate, unless it is stipulated by the pledger in his pledge. However, if a man receives a slave-girl as a pledge and she is pregnant or she becomes pregnant after his taking her as a pledge, her child is included with her.

"A distinction is made between the fruit and the child of the slave-girl. The Messenger of Allah, may Allah bless him and grant him peace, said, 'If someone sells a palm which has been pollinated, the fruit belongs to the seller unless the buyer stipulates its inclusion.' The undisputed way of doing things in our community is that if a man sells a slave-girl or an animal with a foetus in its womb, the foetus belongs to the buyer, whether or not the buyer stipulates it. The palm is not like the animal. Fruit is not like the foetus in its mother's womb. Part of what clarifies that is also that it is the usage of people to have a man pawn the fruit of the palm apart from the

palm. No one pawns the foetus in its mother's womb whether of slaves or animals."

Section: Judgement on Pledging Animals as Security

Book 36, Number 36.12.13b:

Yahya said that he had heard Malik say, "The undisputed way of doing things in our community concerning pledges is that in cases where land or a house or an animal are known to have been destroyed whilst in the possession of the broker of the pledge, and the circumstances of the loss are known, the loss is against the pledger. There is no deduction made from what is due to the broker at all. Any pledge which perishes in the possession of the broker and the circumstances of its loss are only known by his word, the loss is against the broker and he is liable for its value. He is asked to describe whatever was destroyed and then he is made to take an oath about that description and what he loaned on security for it. "Then people of discernment evaluate the description. If the pledge was worth more than what the broker loaned, the pledger takes the extra. If the assessed value of the pledge is less than what he was loaned, the pledger is made to take an oath as to what the broker loaned and he does not have to pay the extra which the broker loaned above the assessed value of the pledge. If the pledger refuses to take an oath, he has to give the broker the extra above the assessed value of the pledge. If the broker says that he doesn't know the value of the pledge, the pledger is made to take an oath on the description of the pledge and that is his if he brings a matter which is not disapproved of."

Malik said, "All this applies when the broker takes the pledge and does not put it in the hands of another."

Section: Judgement on Pledges between Two Men

Book 36, Number 36.13.13c:

Yahya said that he heard Malik speak about two men who had a pledge between them. One of them undertook to sell his pledge, and the other one had asked him to wait a year for his due. He said, "If it is possible to divide the pledge, and the due of the one who asked him to wait will not be decreased, half the pledge which is between them is sold for him and he is given his due. If it is feared that his right will be decreased, all the pledge is sold, and the one who undertook to sell his pledge is given his due from that. If the one who asked him to wait for his due is pleased in himself, half of the price is paid to the pledger. If not, the pledgee is made to take an oath that he only asked him to wait so that he could transfer my pledge to me in its form.' Then he is given his due immediately."

Yahya said that he heard Malik say about a slave whose master had pledged him and the slave had property of his own, "The property of the slave is not part of the pledge unless the broker stipulates that."

Section: Judgement on Pledges in General

Book 36, Number 36.14.13d:

Yahya said that he heard Malik speak about someone who pledged goods as security for a loan, and they perished with the broker. The one who took out the loan confirmed its specification. They agreed on the amount of the loan, but challenged each other about the value of the pledge, the pledger saying that it had been worth twenty dinars, whilst the broker said that it had been worth only ten, and that the amount loaned on security was twenty dinars. Malik said, "It is said to the one in whose hand the pledge is, 'describe it.' If he describes it he is made to take an oath on it and then the people of experience evaluate that description. If the value is more than what was loaned on security for it, it is said to the broker, 'Return the rest of his due to the pledger.' If the value is less than what was loaned on security for it, the broker takes the rest of his due from the pledger. If the value is the exact amount of the loan, the pledge is compensated for by the loan."

Yahya said that he heard Malik say, "What is done in our community about two men who have a dispute about an amount of money loaned on the security of a pledge - the pledger claiming that he pledged it for ten dinars and the broker insisting that he took the pledge as security for twenty dinars, and the pledge is clearly in the possession of the broker - is that the broker is made to take an oath when the value of the pledge is fully known. If the value of the pledge is exactly what he swore that he had loaned on security for it, the broker takes the pledge as his right. He is more entitled to take precedence with an oath since he has possession of the pledge. If the owner of the pledge wants to give him the amount which he swore that he was owed, he can take the pledge back. If the pledge is worth less than the twenty dinars he loaned, then it is said to the pledger, 'Either you give him what he has sworn to and take your pledge back, or you swear to what you said you pledged it for.' If the pledger takes the oath, then what the broker has increased over the value of the pledge will become invalid. If the pledger does not take an oath, he must pay what the broker swore to."

Malik said, "If a pledge given on security for a loan perishes, and both parties deny each other's rights, with the broker who is owed the loan saying that he gave twenty dinars, and the pledger who owes the loan saying that he was given only ten, and with the broker who is owed the loan saying the pledge was worth ten dinars, and the broker who owes the loan saying it was worth twenty, then the broker who is owed the loan is asked to describe the pledge. If he describes it, he must take an oath on its description. Then people with experience of it evaluate that description. If the value of the pledge is estimated to be more than what the broker claims it was, he takes an oath as to what he claimed, and the pledger is given what is over from the value of the pledge. If its value is less than what the broker claims of it, he is made to take an oath as to what he claims is his. Then he demands settlement according to the actual value of the pledge. The one who owes the loan is then made to take an oath on the extra amount which remains owing against him to the claimant after the price of the pledge is reached. That is because the broker becomes a claimant against the pledger. If he takes an oath, the rest of what the broker swore to of what he claimed above the value of the pledge is invalidated. If he draws back, he is bound to pay what remains due to the broker after the value of the pledge."

Section: Judgement on Renting Animals and Going Beyond Specified

Destinations

Book 36, Number 36.15.13e:

Yahya said that he heard Malik say, "What is done in our community about a man who rents an animal for a journey to a specified place and then he goes beyond that place and further, is that the owner of the animal has a choice. If he wants to take extra rent for his animal to cover the distance overstepped, he is given that on top of the first rent and the animal is returned. If the owner of the animal likes to sell the animal from the place where he over-steps, he has the price of the animal on top of the rent. If, however, the hirer rented the animal to go and return and then he overstepped when he reached the city to which he rented him, the owner of the animal only has half the first rent. That is because half of the rent is going, and half of it is returning. If he oversteps with the animal, only half of the first rent is obliged for him. Had the animal died when he reached the city to which it was rented, the hirer would not be liable and the renter would only have half the rent."

Malik said, "That is what is done with people who overstep and dispute about what they took the animal for."

Malik said, "It is also like that with some one who takes qirad-money from his companion. The owner of the property says to him, 'Do not buy such-and-such animals or such-and-such goods.' He names them and forbids them and disapproves of his money being invested in them. The one who takes the money then buys what he was forbidden. By that, he intends to be liable for the money and take the profit of his companion. When he does that, the owner of the money has an option. If he wants to enter with him in the goods according to the original stipulations between them about the profit, he does so. If he likes, he has his capital guaranteed against the one who took the capital and over stepped the mark."

Malik said, "It is also like that with a man with whom another man invests some goods. The owner of the property orders him to buy certain goods for him which he names. He differs, and buys with the goods something other than what he was ordered to buy. He exceeded his orders. The owner of the goods has an option. If he wants to take what was bought with his property, he takes it. If he wants the partner to be liable for his capital he has that."

Section: Judgement about Raped Women

Book 36, Number 36.16.14:

Malik related to me from Ibn Shihab that Abd al-Malik ibn Marwan gave a judgment that the rapist had to pay the raped woman her bride-price.

Yahya said that he heard Malik say, "What is done in our community about the man who rapes a woman, virgin or non-virgin, if she is free, is that he must pay the bride-price of the like of her. If she is a slave, he must pay what he has diminished of her worth. The hadd-punishment in such cases is applied to the rapist, and there is no punishment applied to the raped woman. If the rapist is a slave, that is against his

master unless he wishes to surrender him."

Section: Judgement on Consumption of Other Peoples' Animals

Book 36, Number 36.17.14a:

Yahya said that he heard Malik say, "What is done in our community about someone who consumed an animal without the permission of its owner, is that he must pay its price on the day he consumed it. He is not obliged to replace it with a similar animal nor does he compensate the owner with any kind of animal. He must pay its price on the day it was consumed, and giving the value is more equitable in compensation for animals and goods."

Yahya said that he heard Malik say about someone who consumes some food without the permission of its owner, "He returns to the owner a like weight of the same kind of food. Food is in the position of gold and silver. Gold and silver are returned with gold and silver. The animal is not in the position of gold in that. What distinguishes between them is the sunna and the behaviour which is in force.

Yahya said that he heard Malik say, "If a man is entrusted with some wealth and then trades with it for himself and makes a profit, the profit is his because he is responsible for the property until he returns it to its owner. "

Section: Judgement on Abandonment of Islam

Book 36, Number 36.18.15:

Yahya related to me from Malik from Zayd ibn Aslam that the Messenger of Allah, may Allah bless him and grant him peace, said, "If someone changes his deen - strike his neck!"

The meaning of the statement of the Prophet, may Allah bless him and grant him peace, in our opinion and Allah knows best, is that "if someone changes his deen, strike his neck!" refers to those who leave Islam for other than it - like the heretics and their like, about whom it is known. They are killed without being called to tawba because their tawba is not recognised. They were hiding their kufr and publishing their Islam, so I do not think that one calls such people to tawba, and one does not accept their word. As for the one who goes out of Islam to something else and divulges it, one calls him to tawba. If he does not turn in tawba, he is killed. If there are people in that situation, I think that one should call them to Islam and call them to tawba. If they turn in tawba, that is accepted from them. If they do not turn in tawba, they are killed. That does not refer as we see it, and Allah knows best, to those who come out of Judaism to Christianity or from Christianity to Judaism, nor to someone who changes his deen from the various forms of deen except for Islam. Whoever comes out of Islam to other than it and divulges that, that is the one who is referred to, and Allah knows best!

Book 36, Number 36.18.16:

Malik related to me from Abd ar-Rahman ibn Muhammad ibn Abdullah ibn Abd al-Qari that his father said, "A man came to Umar ibn al-Khattab from Abu Musa al-Ashari. Umar asked after various people, and he informed him. Then Umar inquired, 'Do you have any recent news?' He said, 'Yes. A man has become a kafir after his Islam.' Umar asked, 'What have you done with him?' He said, 'We let him approach and struck off his head.' Umar said, 'Didn't you imprison him for three days and feed him a loaf of bread every day and call on him to tawba that he might turn in tawba and return to the command of Allah?' Then Umar said, 'O Allah! I was not present and I did not order it and I am not pleased since it has come to me!' "

Section: Judgement on Men Finding Other Men with Their Wives

Book 36, Number 36.19.17:

Yahya related to me from Malik from Suhayl ibn Abi Salih as-Samman from his father from Abu Hurayra that Sad ibn Ubada said to the Messenger of Allah, may Allah bless him and grant him peace, "What do you think if I find a man with my wife? Shall I grant him a respite until I bring four witnesses?" The Messenger of Allah, may Allah bless him and grant him peace, replied, "Yes."

Book 36, Number 36.19.18:

Malik related to me from Yahya ibn Said from Said ibn al-Musayyab that a Syrian man called Ibn Khaybari found a man with his wife and killed him, or killed them both. Muawiya ibn Abi Sufyan found it difficult to make a decision and he wrote to Abu Musa al-Ashari to ask Ali ibn Abi Talib for him about that. So Abu Musa asked Ali ibn Abi Talib and AIi said to him, "Is this thing in my land? I adjure you, you must tell me." Abu Musa explained to him how Muawiya ibn Abi Sufyan had written him to ask Ali about it. Ali said, "I am Abu Hasan. If he does not bring four witnesses, then let him be completely handed over," (to the relatives of the murdered man).

Section: Judgement on the Abandoned Child

Book 36, Number 36.20.19:

Yahya said that Malik related from Ibn Shihab that Sunayn Abi Jamila, a man from the Banu Sulaym, found an abandoned child in the time of Umar ibn al-Khattab. Sunayn took him to Umar ibn al-Khattab. He asked, "What has induced you to take this person?" He answered, "I found him lost, so I took him." Umar's advisor said to him,' 'Amir al-Muminin! He is a man who does good." Umar inquired of him, "Is it so?" He replied, "Yes." Umar ibn al-Khattab said, "Go, he is free, and you have his wala' inheritance, and we will provide for him."

Yahya said that he heard Malik say, "What is done in our community about an abandoned child is that he is free, and his wala' inheritance belongs to the muslims, and they inherit from him and pay his blood money."

Section: Judgement on Attaching Paternity to Children

Book 36, Number 36.21.20:

Yahya said from Malik from Ibn Shihab from Urwa ibn az-Zubayr that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "Utba ibn Abi Waqqas disclosed to his brother, Sad ibn Abi Waqqas, that he was the father of the son of the slave-girl of Zama, and made him promise to look after him (after his death). In the year of the conquest, Sad took him and said, 'He is the son of my brother. He covenanted with me about him.' Abd ibn Zama stood up and said, 'He is my brother and the son of my father's slave-girl. He was born on his bed.' They went to the Messenger of Allah, may Allah bless him and grant him peace. Sad said, 'Messenger of Allah! He is the son of my brother, he made a covenant with me about him.' Abd ibn Zama said, 'He is my brother and the son of my father's slave-girl and was born on my father's bed.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'He is yours, Abd ibn Zama.' Then the Messenger of Allah, may Allah bless him and grant him peace, said, 'A child belongs to the household (where he was born) and the adulterer is stoned.' Then he told Sawda bint Zama, 'Veil yourself from him,' since he saw in him a resemblance to Utba ibn Abi Waqqas." A'isha added, "He did not see her until he met Allah, the Mighty, the Majestic!"

Book 36, Number 36.21.21:

Malik related to me from Yazid ibn Abdullah ibn al-Hadi from Muhammad ibn Ibrahim ibn al-Harith at-Taymi from Sulayman ibn Yasar from Abdullah ibn Abi Umayya that a woman's husband died, and she did the idda of four months and ten days. Then she married when she was free to marry. She stayed with her husband for four and a half months, then gave birth to a fully developed child. Her husband went to Umar ibn al-Khattab and mentioned that to him, so Umar called some of the old women of the Jahiliyya and asked them about that. One of the women said, "I will tell you what happened with this woman. When her husband died, she was pregnant by him, but then the blood flowed from her because of his death and the child became dry in her womb. When her new husband had intercourse with her and the water reached the child, the child moved in the womb and grew." Umar ibn al-Khattab believed her and separated them (until she had completed her idda). Umar said, "Only good has reached me about you two," and he connected the child to the first husband.

Book 36, Number 36.21.22:

Malik related to me from Yahya ibn Said from Sulayman ibn Yasar that Umar ibn al-Khattab used to attach the children of the Jahiliyya to whoever claimed them in Islam. Two men came and each of them claimed a woman's child. Umar ibn al-Khattab summoned a person who scrutinized features and he looked at them. The scrutinizer said, "They both share in him." Umar ibn al-Khattab hit him with a whip. Then he summoned the woman, and said, "Tell me your tale." She said, "It was this one (indicating one of the two men) who used to come to me while I was with my people's camels. He did not leave me until he thought and I thought that I was

pregnant. Then he left me, and blood flowed from me, and this other one took his place. I do not know from which of them the child is." The scrutinizer said, "Allah is greater." Umar said to the child, "Go to whichever of them you wish."

Book 36, Number 36.21.23:

Malik related to me that he had heard that Umar ibn al-Khattab or Uthman ibn Affan gave a judgement about a slave woman who misled a man about herself and said that she was free. He married her and she bore children. It was decided that he should ransom his children with their like of slaves.

Yahya said that he heard Malik say, "To ransom them with their price is more equitable in this case, Allah willing."

Section: Judgement on Inheritance of Attached Children

Book 36, Number 36.22.23a:

Yahya said that he heard Malik say, "The way of doing things generally agreed upon in our community in the case of a man who dies and has sons and one of them claims, 'My father confirmed that so-and-so was his son,' is that the relationship is not established by the testimony of one man, and the confirmation of the one who confirmed it is only permitted as regards his own share in the division of his father's property. The one testified for is only given his due from the share of the testifier."

Malik said, "An example of this is that a man dies leaving two sons, and 600 dinars. Each of them takes 300 dinars. Then one of them testifies that his deceased father confirmed that so-and-so was his son. The one who testifies is obliged to give 100 dinars to the one thus connected. This is half of the inheritance of the one thought to be related, had he been related. If the other confirms him, he takes the other 100 and so he completes his right and his relationship is established. His position is similar to that of a woman who confirms a debt against her father or her husband and the other heirs deny it. She must pay to the person whose debt she confirms, the amount according to her share of the full debt, had it been confirmed against all the heirs. If the woman inherits an eighth, she pays the creditor an eighth of his debt. If a daughter inherits a half, she pays the creditor half of his debt. Whichever women confirm him, pay him according to this.

Malik said, "If a man's testimony is in agreement with what the woman testified to, that so-and-so had a debt against his father, the creditor is made to take an oath with one witness and he is given all his due. This is not the position with women because a man's testimony is allowed and the creditor must take an oath with the testimony of his witness, and take all his due. If he does not take an oath, he only takes from the inheritance of the one who confirmed him according to his share of the debt, because he confirmed his right and the other heirs denied it. It is permitted for him to confirm it."

Section: Judgement on Women who are Umm Walad

Book 36, Number 36.23.24:

Yahya said that Malik related from Ibn Shihab from Salim ibn Abdullah ibn Umar from his father that Umar ibn al-Khattab said, "What's the matter with men who have intercourse with their slave-girls and then dismiss them? No slave-girl comes to me whose master confesses that he has had intercourse with her but that I connect her child to him, whether or not he has practised coitus interruptus or stopped having intercourse with her."

Book 36, Number 36.23.25:

Malik related to me from Nafi that Safiyya bint Abi Ubayd informed him that Umar ibn al-Khattab said, "What is the matter with men who have intercourse with their slave-girls and then leave them to go? No slave-girl comes to me whose master confesses that he has had intercourse with her but that I connect her child to him, whether or not he has practised coitus interruptus or left off from intercourse with her."

Yahya said that he heard Malik say, "What is done in our community about an umm walad who commits a crime is that her master is liable for what she has done up to her value. He does not have to surrender her, and he cannot be made to bear more than her value for her crime."

Section: Judgement on Bringing Barren Land into Cultivation

Book 36, Number 36.24.26:

Yahya related from Malik from Hisham ibn Urwa from his father that the Messenger of Allah, may Allah bless him and grant him peace, said, "If anyone revives dead land, it belongs to him, and the unjust root has no right."

Malik explained, "The unjust root is whatever is taken, or planted without right."

Book 36, Number 36.24.27:

Malik related to me from Ibn Shihab from Salim ibn Abdullah from his father that Umar ibn al-Khattab said, "Whoever revives dead land, it belongs to him."

Malik said, "That is what is done in our community."

Section: Judgement on Watering Land

Book 36, Number 36.25.28:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Muhammad ibn Amr ibn Hazm that he heard that the Messenger of Allah, may Allah bless him and grant him peace, said about the flood-channels of Mahzur and Mudhaynib (in Madina), "Dam them systematically, so that the water is diverted into each property in turn up to ankle level, starting upstream."

Book 36, Number 36.25.29:

Malik related to me from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Excess water is not withheld in order to prevent herbage from growing."

Book 36, Number 36.25.30:

Malik related to me from Abu'r-Rijal Muhammad ibn Abd ar-Rahman from his mother Amra bint Abd ar-Rahman that she informed him that the Messenger of Allah, may Allah bless him and grant him peace, said, "Do not withhold the surplus water of a well from people."

Section: Judgement on Benefitting Neighbours

Book 36, Number 36.26.31:

Yahya related to me from Malik from Amr ibn Yahya al-Mazini from his father that the Messenger of Allah, may Allah bless him and grant him peace, said, "There is no injury nor return of injury."

Book 36, Number 36.26.32:

Malik related to me from Ibn Shihab from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "No one should prevent his neighbour from fixing a wooden peg in his wall." Then Abu Hurayra said, "Why do I see you turning away from it? By Allah! I shall keep on at you about it."

Book 36, Number 36.26.33:

Malik related to me from Amr ibn Yahya al-Mazini from his father that ad-Dahhak ibn Khalifa watered his irrigation ditch from a large source of water. He wanted to have it pass through the land of Muhammad ibn Maslama, and Muhammad refused. Ad-Dahhak said to him, "Why do you prevent me? It will benefit you. You can drink from it first and last and it will not harm you." Muhammed refused so ad-Dahhak spoke about it to Umar ibn al-Khattab, and Umar ibn al-Khattab summoned Muhammad ibn Maslama and ordered him to clear the way. Muhammad said, "No." Umar said, "Why do you prevent your brother from what will benefit him and is also useful for you? You will take water from it first and last and it will not harm you."

Muhammad said, "No, by Allah!" Umar said, "By Allah, he will pass it through, even if it is over your belly!" Umar ordered him to allow its passage and ad-Dahhak did so.

Book 36, Number 36.26.34:

Malik related to me from Amr ibn Yahya al-Mazini that his father said, "There was a

stream in my grand-father's garden belonging to Abd ar-Rahman ibn Awf Abd ar-Rahman ibn Awf wanted to transfer it to a corner of the garden nearer to his land, and the owner of the garden prevented him. Abd ar-Rahman ibn Awf spoke to Umar ibn al-Khattab about it, and he gave a judgement to Abd ar-Rahman ibn Awf that he should transfer it."

Section: Judgement on Division of Properties

Book 36, Number 36.27.35:

Yahya related to me from Malik that Thawr ibn Zayd ad-Dili said, "I heard that the Messenger of Allah, may Allah bless him and grant him peace, said, 'A house or land that has been divided in the Jahiliyya, it is according to the division of the Jahiliyya. A house or land which has not been divided before the coming of Islam is divided according to Islam.' "

Book 36, Number 36.27.36:

Yahya said that he heard Malik speak about a man who died and left properties in Aliya and Safila (outlying districts of Madina). He said, "Unirrigated naturally watered land is not in the same category as irrigated land unless the family are satisfied with that. Unirrigated land is only in the same category as land with a spring when it resembles it. When the properties are in one land, and are close together, each individual property is evaluated and then divided between the heirs. Dwellings and houses are in the same position."

Section: Judgement on Animals Grazing on Other People's Crops and Animals Stolen from the Herd

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Book 36, Number 36.28.37:

Yahya related to me from Malik from Ibn Shihab from Haram ibn Sad ibn Muhayyisa that a female camel of al-Bara ibn Azib entered the garden of a man and it did some damage to it. The Messenger of Allah, may Allah bless him and grant him peace, gave a judgement that the people of the garden were responsible for guarding it in the day, and the owner of the animals was liable for what the animals destroyed at night.

Book 36, Number 36.28.38:

Malik related to me from Hisham ibn Urwa from his father from Yahya ibn Abd ar-Rahman ibn Hatib that some slaves of Hatib stole a she-camel belonging to a man from the Muzayna tribe and they slaughtered it. The case was brought before Umar ibn al-Khattab, and Umar ordered Kathir ibn as-Salt to cut off their hands. Then Umar said to Habib, "I think you must be starving them," and he added, "By Allah! I will make you pay such a fine that it will be heavy for you." He enquired of the man from the Muzayna tribe, "What was the price of your camel?" The Muzayni said, "By Allah, I refused to sell her for 400 dirhams." Umar said, "Give him 800

dirhams."

Yahya said that he heard Malik say, "Doubling the price is not the behaviour of our community. What people have settled on among us is that the man is obliged to pay the value of the camel or animal on the day he took it."

Section: Judgement on Injuries to Domestic Animals

Book 36, Number 36.29.38a:

Yahya said that he heard Malik say, "What is done in our community about injury to a domestic animal, is that the one who injures it must pay the amount by which he has diminished the animal's price."

Yahya said that he heard Malik speak about a camel who attacked a man and he feared for himself and killed it or hamstrung it. He said, "If he has a clear proof that it was heading for him and had attacked him, there are no damages against him. If there is no clear proof except his word, he is responsible for the camel."

Section: Judgement on Articles Given to Artisans to Work On

Book 36, Number 36.30.38b:

Yahya related that he heard Malik say that if a man gave a washer a garment to dye and he dyed it, and then the owner of the garment said, "I did not order you to use this dye," and the washer protested that he had done so, then the washer was to be believed. It was the same with the tailor and the gold-smith. They took an oath about it unless they produced something they would not normally have been employed to do. In that situation their statement was not allowed and the owner of the garment had to take an oath . If he rejected it and refused to swear, then the dyer was made to take an oath.

Yahya said, "I heard Malik speak about a dyer who was given a garment and he made a mistake and gave it to another man and the one to whom he gave it wore it. He said, 'The one who wore it has no damages against him, and the washer pays damages to the owner of the garment. That is when the man wears the garment which was given him without recognizing that it is not his. If he wears it knowing that it is not his garment, he is responsible for it.' "

Section: Judgement on Taking On Debts and Transfers of Debt

Book 36, Number 36.31.38c:

Yahya said that he heard Malik say, "What is done in our community about a man who refers a creditor to another man for the debt he owes him is that if the one referred to goes bankrupt or dies, and does not leave enough to pay the debt, then the creditor has nothing against the one who referred him and the debt does not return to the first party."

Malik said, "This is the way of doing things about which there is no dispute in our community."

Malik said, "If a man has his debt to somebody taken on for him by another man and then the man who took it on dies or goes bankrupt, then whatever was taken on by him returns to the first debtor."

Section: Judgement on Garments Bought with Defects

Book 36, Number 36.32.38d:

Yahya said that he heard Malik say, "If a man buys a garment which has a defect, a burn or something else, which the seller knows about and that is testified against him or he confirms it, and the man who has bought it causes a new tear which decreases the price of the garment, and then he learns about the original defect, he can return it to the seller and he is not liable for his tearing it.

"If a man buys a garment which has a defect of a burn or flaw, and the one who sold it to him claims that he did not know about it, and the buyer has cut the garment or dyed it, then the buyer has an option . If he wishes, he can have a reduction according to what the burn or flaw detracts from the price of the garment and he can keep the garment, or if he wishes to pay damages for what the cutting or dyeing has decreased of the price of the garment and return it, he can do so.

"If the buyer has dyed the garment with a dye which increases the value, the buyer has an option. If he wishes, he has a reduction from the price of the garment according to what the defect diminishes or if he wishes to become a partner with the one who sold the garment he does so. The price of the garment with a burn or flaw is looked at. If the price is ten dirhams, and the amount by which the dyeing increased the value is five dirhams, then they are partners in the garment, each according to his share. In this reckoning is the amount by which the dyeing increases the price of the garment."

Section: What is Not Permitted in Giving Gifts (1)

Book 36, Number 36.33.39:

Yahya related to us from Malik from Ibn Shihab from Humayd ibn Abd ar-Rah man ibn Awf and from Muhammad ibn an-Numan ibn Bashir that they related to him that an-Numan ibn Bashir said that his father Bashir brought him to the Messenger of Allah, may Allah bless him and grant him peace, and said, "I have given this son of mine one of my slaves." The Messenger of Allah, may Allah bless him and grant him peace, said, "Have you given each of your children the same as this?" He said, "No." The Messenger of Allah, may Allah bless him and grant him peace, said, "Then take the slave back."

Book 36, Number 36.33.40:

Malik related to me from Ibn Shihab from Urwa ibn az-Zubayr that A'isha, the wife

of the Prophet, may Allah bless him and grant him peace, said, "Abu Bakr as-Siddiq gave me palm trees whose produce was twenty awsuq from his property at al-Ghaba. When he was dying, he said, 'By Allah, little daughter, there is no one I would prefer to be wealthy after I die than you. There is no one it is more difficult for me to see poor after I die than you. I gave you palm-trees whose produce is twenty awsuq. Had you cut them and taken possession of them, they would have been yours, but today they are the property of the heirs, and they are your two brothers and your two sisters, so divide it according to the Book of Allah.' A'isha continued, "I said, 'My father! By Allah, even if it had been more, I would have left it. There is only Asma. Who is my other sister?" Abu Bakr replied, 'What is in the womb of Kharija? (Kharija was the wife of Abu Bakr's 'brother' from the Ansar.) I think that it is going to be a girl.' "

Book 36, Number 36.33.41:

Malik related to me from Ibn Shihab from Urwa ibn az-Zubayr from Abd ar-Rahman ibn Abd al-Qari that Umar ibn al-Khattab said, "What is wrong with men who give their sons gifts and then keep them and if the son dies, they say, 'My property is in my possession and I did not give it to anyone.' But if they themselves are dying, they say, 'It belongs to my son, I gave it to him.' Whoever gives a gift, and does not hand it over to the one to whom it was given, the gift is invalid, and if he dies it belongs to the heirs in general."

Section: What is Not Permitted in Giving Gifts (2)

Book 36, Number 36.34.41a:

Yahya said that he heard Malik say, "What is done in our community about some one who gives a gift not intending a reward is that he calls witnesses to it. It is affirmed for the one to whom it has been given unless the giver dies before the one to whom it was given receives the gift."

He said, "If the giver wants to keep the gift after he has had it witnessed, he cannot. If the recipient claims it from him, he takes it."

Malik said, "If some one gives a gift and then withdraws it and the recipient brings a witness to testify for him that he was given the gift, be it goods, gold, silver or animals, the recipient is made to take an oath. If he refuses, the giver is made to take an oath. If he also refuses to take an oath, he gives to the recipient what he claims from him if he has at least one witness. If he does not have a witness, he has nothing . "

Malik said, "If someone gives a gift not expecting anything in return and then the recipient dies, the heirs are in his place. If the giver dies before the recipient has received his gift, the recipient has nothing. That is because he was given a gift which he did not take possession of. If the giver wants to keep it, and he has called witnesses to the gift, he cannot do that. If the recipient claims his right he takes it."

Section: Judgement on Gifts

Book 36, Number 36.35.42:

Malik related to me from Da'ud ibn al-Husayn from Abu Ghatafan ibn Tarif al-Muriyi that Umar ibn al-Khattab said, "If someone gives a gift to strengthen ties with a relative or as sadaqa, he cannot have it returned. If some one, however, gives a gift seeking by it favour or reward, he has his gift and can reclaim it if he does not have satisfaction from it."

Yahya said that he heard Malik say, "The generally agreed-on way of doing things in our community is that if the gift is returned to the one who gave it for recompense, and its value has been either increased or decreased, the one to whom it has been given gives the owner its value on the day he received it."

Section: Taking Back Sadaqa

Book 36, Number 36.36.42a:

Yahya said that he heard Malik say, "The way of doing things in our community about which there is no dispute, is that if a man gives sadaqa to his son - sadaqa which the son takes possession of or which is in the father's keeping and the father has had his sadaqa witnessed, he cannot take back any of it because he cannot reclaim any sadaqa."

Yahya said that he heard Malik say, "The generally agreed-on way of doing things in our community in the case of someone who gives his son a gift or grants him a gift which is not sadaqa is that he can take it back as long as the child does not start a debt, which people claim from him, and which they trust him for on the strength of the gift his father has given him. The father cannot take back anything from the gift after debts are started against it.

"If a man gives his son or daughter something and a woman marries the man, and she only marries him for the wealth and the property which his father has given him and so the father wants to take that back, or, if a man marries a woman whose father has given her a gift and he marries her with an increased bride-price because of the wealth and property that her father has given, then the father says, 'I will take that back,' then the father cannot take back any of that from the son or daughter if it is as I have described to you."

Section: Judgement on Life Pensions

Book 36, Number 36.37.43:

Malik related to me from Ibn Shihab from Abu Salama ibn Abd ar-Rahman ibn Awf from Jabir ibn Abdullah al-Ansari that the Messenger of Allah, may Allah bless him and grant him peace, said, "If someone is given a life pension, for him and his posterity, it belongs to the person to whom it has been given. It never reverts to the one who gave it because he gave a gift and the rules of inheritance apply to it."

Book 36, Number 36.37.44:

Malik related to me from Yahya ibn Said that Abd ar-Rahman ibn al-Qasim ibn Muhammad heard Makhul ad-Dimashqi ask al-Qasim ibn Muhammad about the life pension and what people said about it. Al-Qasim ibn Muhammad said, "I have only come upon people who keep to the conditions they make about their property and what they are given."

Yahya said that he heard Malik say, "What is done in our community is that the life pension reverts to the one who makes it a life pension unless he says, 'It belongs to you and your posterity.' "

Book 36, Number 36.37.45:

Malik related to me from Nafi that Abdullah ibn Umar inherited the house of Hafsa bint Umar. He said, "Hafsa gave lodging to the daughter of Zayd ibn al-Khattab for as long as she lived. When the daughter of Zayd died, Abdullah ibn Umar took possession of the dwelling and considered that it was his."

Section: The Judgement on Lost Property

Book 36, Number 36.38.46:

Malik related to me from Rabia ibn Abi Abd ar-Rahman from Yazid, the mawla of al-Munbaith that Zayd ibn Khalid al-Juhani said, "A man came to the Messenger of Allah, may Allah bless him and grant him peace, and asked him about finds. He said, 'Memorize the characteristics of the object found, then publicise it for a year. If the owner comes, give it to him. If not, then it is your business.' He said, 'What about lost sheep, Messenger of Allah?' He said, 'They are yours, your brother's or the wolf's.' He said, 'And the lost camel?' He said, 'It's none of your concern. It has its water and its feet. It will reach water and eat trees until its owner finds it.' "

Book 36, Number 36.38.47:

Malik related to me from Ayyub ibn Musa from Muawiya ibn Abdullah ibn Badr al-Juhani that his father informed him that he stopped with a people on the way to Syria and he found a purse which had eighty dinars in it. He mentioned that to Umar ibn al-Khattab. Umar said to him, "Announce it at the doors of the mosques and mention it to everyone who comes from Syria for a year. When a year passes, it is your business."

Book 36, Number 36.38.48:

Malik related to me from Nafi that a man found something and went to Abdullah ibn Umar and said to him, "I have found something. What do you think I should do about it?" Abdullah ibn Umar said to him, "Publicise it!" He said, "I have done so." He said, "Do it again." He said, "I have done so." Abdullah said, "I do not order you to use it. If you wished, you could have left it."

Section: Judgement on Slaves Using Finds

Book 36, Number 36.39.48a:

Yahya said that he heard Malik say, "What is done in our community about a slave who finds something and uses it before the term which is set for finds has been reached, and that is a year, is that it is against his person. Either his master gives the price of what his slave has used, or he surrenders his slave to them as compensation. If he withheld it until the term was reached which is set for finds and he used it, it is a debt against him which follows him and it is not against his person and there is nothing against his master in it."

Section: Judgement on Strays

Book 36, Number 36.40.49:

Malik related to me from Yahya ibn Said from Sulayman ibn Yasar that Thabit ibn ad-Dahhak al-Ansari told him that he had found a camel at Harra, so he hobbled it and mentioned it to Umar ibn al-Khattab and Umar ordered him to make it known three times. Thabit said to him, "That would distract me from the running of my estate." Umar said to him, "Then let it go where you found it."

Book 36, Number 36.40.50:

Malik related to me from Yahya ibn Said from Said ibn al-Musayyab that Umar ibn al-Khattab said while he was leaning his back against the Kaba, "Whoever takes a stray is astray."

Book 36, Number 36.40.51:

Malik related to me that he heard Ibn Shihab say, "The stray camels in the time of Umar ibn al-Khattab were numerous and left alone. No one touched them until the time of Uthman ibn Affan. He ordered that they be publicised and then sold, and if the owner came afterwards, he was given their price."

Section: Sadaqa of the Living for the Dead

Book 36, Number 36.41.52:

Malik related to me from Said ibn Amr Shurahbil ibn Said ibn Sad ibn Ubada from his father that his father said, "Sad ibn Ubada went out with the Messenger of Allah, may Allah bless him and grant him peace, in one of his raids and his mother was dying in Madina. Someone said to her, 'Leave a testament.' She said, 'In what shall I leave a testament? The property is Sad's property.' Then she died before Sad returned. When Sad ibn Ubada returned, that was mentioned to him. Sad said,

'Messenger of Allah! Will it help her if I give sadaqa for her?' The Messenger of Allah, may Allah bless him and grant him peace, said, 'Yes' Sad said, 'Such-and-such

a garden is sadaqa for her,' naming the garden."

Book 36, Number 36.41.53:

Malik related to me from Hisham ibn Urwa from his father from A'isha, the wife of the Prophet, may Allah bless him and grant him peace, that a man said to the Messenger of Allah, may Allah bless him and grant him peace, "My mother died suddenly, and I think that had she spoken, she would have given sadaqa. Shall I give sadaqa for her?" The Messenger of Allah, may Allah bless him and grant him peace, said, "Yes."

Book 36, Number 36.41.54:

Malik related to me that he heard that a man of the Ansar from the tribe of Banu al-Harith ibn al-Khazraj, gave sadaqa to his parents and then they died. Their son inherited the property he had given them and it was palm-trees. He asked the Messenger of Allah, may Allah bless him and grant him peace, about it and he said, "You are rewarded for your sadaqa, and take it as your inheritance."

Translation of Malik's Muwatta, Book 37:

Wills and Testaments

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Section: Command to Write Testaments

Book 37, Number 37.1.1:

Malik related to me from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "It is the duty of a muslim man who has something to be given as a bequest not to spend two nights without writing a will about it."

Malik said, "The generally agreed-on way of doing things in our community is that when the testator writes something in health or illness as a bequest, and it has freeing slaves or things other than that in it, he can alter it in any way he chooses, until he is on his deathbed. If he prefers to abandon a bequest or change it, he can do so unless he has made a slave mudabbar (to be freed after his death). If he has made him mudabbar, there is no way to change what he has made mudabbar. He is allowed to change his testament because the Messenger of Allah, may Allah bless him and grant him peace, said, "It is the duty of a muslim man who has something to be given as a bequest not to spend two nights without writing a will about it."

Malik explained, "Had the testator not been able to change his will nor what was mentioned in it about freeing slaves, each testator might withhold making bequests from his property, whether in freeing slaves or other than it. A man gives a bequest in his health and in his travelling." (i.e. he does not wait till his death bed) .

Malik summed up, "The way of doing things in our community about which there is no dispute is that he can change whatever he likes of that except for the mudabbar."

Section: Permissibility of the Bequest of the Child, the Simpleton, the Lunatic and the Idiot

Book 37, Number 37.2.2:

Malik related to me from Abdullah ibn Abi Bakr ibn Hazm that Amr ibn Sulaym az-Zuraqi informed his father that it had been said to Umar ibn al-Khattab, "There is here an adolescent boy who has not yet reached puberty. He is from the Ghassan tribe and his heir is in ash-Sham. He has property. Here he only has the daughter of one of his paternal uncles." Umar ibn al-Khattab instructed, "Let him leave her a bequest." He willed her a property called the well of Jusham.

Malik added, "That property was sold for 30,000 dirhams, and the daughter of the paternal uncle to whom he willed it was the mother of Amr ibn Sulaym az-Zuraqi."

Book 37, Number 37.2.3:

Malik related to me from Yahya ibn Said from Abu Bakr ibn Hazm that a boy from Ghassan was dying in Madina while his heir was in Syria. That was mentioned to Umar ibn al-Khattab. It was said to him, "So-and-so is dying. Shall he make a bequest?" He said, "Let him make a bequest."

Yahya ibn Said said that Abu Bakr had said, "He was a boy of ten or twelve years." Yahya said, "He willed the well of Jusham, and his people sold it for 30,000 dirhams."

Yahya said that he heard Malik say, "The generally agreed-on way of doing things in our community is that a simpleton, an idiot, or a lunatic who recovers at times, can make wills if they have enough of their wits about them to recognise what they will. Someone who has not enough wits to recognise what he wills, and is overcome in his intellect, cannot make a bequest."

Section: Limiting the Bequest to One-Third of the Estate

Book 37, Number 37.3.4:

Malik related to me from Ibn Shihab from Amir ibn Sad ibn Abi Waqqas that his father said, "The Messenger of Allah, may Allah bless him and grant him peace, came to me to treat me for a pain which became hard to bear in the year of the farewell hajj. I said, 'Messenger of Allah, you can see how far the pain has reached me. I have property and only my daughter inherits from me. Shall I give two thirds of my property as sadaqa?' The Messenger of Allah, may Allah bless him and grant him peace, said, 'No.' I said, 'Half?' He said, 'No.' Then the Messenger of Allah, may Allah bless him and grant him peace, said, 'A third, and a third is a lot. Leaving your heirs rich is better than leaving them poor to beg from people. You never spend anything on maintenance desiring the Face of Allah by it, but that you are rewarded for it, even what you appoint for your wife.' Sad said, 'Messenger of Allah, will I be left here in Makka after my companions have departed for Madina?' The Messenger of Allah, may Allah bless him and grant him peace, said, 'If you are left behind, and do sound deeds you will increase your degree and elevation by them. Perhaps you will be left behind so that some people may benefit by you and others may be harmed by you. O Allah! complete their hijra for my companions, and do not turn them back on their heels. The unfortunate one is Said ibn Khawla.' The Messenger of Allah, may Allah bless him and grant him peace, was distressed on his account for he had died at Makka."

Yahya said that he heard Malik speak about a man who willed a third of his property to a man and said as well, "My slave will serve so-and-so (another man) for as long as he lives, then he is free," then that was looked into, and the slave was found to be a third of the property of the deceased. Malik said, "The service of the slave is evaluated. Then the two of them divide it between them. The one who was willed a third takes his third, as a share, and the one who was willed the service of the slave takes what was evaluated for him of the slave's service. Each of them takes, from the service of the slave or from his wage if he has a wage, according to his share. If the

one who was given the service of the slave for as long as he lived dies, then the slave is freed."

Yahya said that he heard Malik speak about someone who willed his third and said "So-and-so has such-and-such, and so-and-so has such-and-such," naming some of his property, and his heirs protested that it was more than a third." Malik said, "The heirs then have an option between giving the beneficiaries their full bequests and taking the rest of the property of the deceased, or between dividing among the beneficiaries the third of the property of the deceased and surrendering to them their third. If they wish, their rights in it reach as far as they reach."

Section: Dealing with the Property of the Pregnant Woman, the Sick Person and Someone Present in Battle

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Book 37, Number 37.4.4a:

Yahya said that he heard Malik say, "The best of what I have heard about the testament of a pregnant woman and about what settlements she is permitted in her property is that the pregnant woman is like the sick person. When the illness is light, and one does not fear for the sick person, he does with his property what he likes. If the illness is such that his life is feared for, he can only dispose of a third of his estate."

He said, "It is the same with a woman who is pregnant. The beginning of pregnancy is good news and joy. It is not illness and no fear because Allah the Blessed, the Exalted, said in His Book, 'We gave her good news of Ishaq and after Ishaq, Yaqub.' (Sura ll ayat 71). And He said, 'She bore a light burden and passed by with it, but when she became heavy, they called upon Allah, their Lord, "If you give us a good-doing son, we will be among the thankful." '(Sura 7 ayat 189).

"When a pregnant woman becomes heavy, she is only permitted to dispose of a third of her estate. The beginning of this restriction is after six months. Allah, the Blessed, the Exalted, said in His Book, 'Mothers suckle their children for two complete years.' And He said, 'his bearing and weaning are thirty months.' (Sura 2 ayat 233).

"When six months have passed for the pregnant woman from the day she conceived, she is only permitted to dispose of a third of her property."

Yahya said that he heard Malik say, "A man who is advancing in the row for battle, can only dispose of a third of his property. He is in the same position as a pregnant woman or an ill person who is feared for, as long as he is in that situation."

Section: Bequests to Heirs and Right of Possession

Book 37, Number 37.5.4b:

Yahya said that he heard Malik say, "This ayat is abrogated. It is the word of Allah, the Blessed, the Exalted, 'If he leaves goods, the testament is for parents and kinsmen.' What came down about the division of the fixed shares of inheritance in

the Book of Allah, the Mighty, the Exalted, abrogated it."

Yahya said that he heard Malik say, "The established sunna with us, in which there is no dispute, is that it is not permitted for a testator to make a bequest (in addition to the fixed share) in favour of an heir, unless the other heirs permit him. If some of them permit him and others refuse, he is allowed to diminish the share of those who have given their permission. Those who refuse take their full share from the inheritance.

Yahya said that he heard Malik speak about an invalid who made a bequest and asked his heirs to give him permission to make a bequest when he was so ill that he only had command of a third of his property, and they gave him permission to leave some of his heirs more than his third. Malik said, "They cannot revoke that. Had they been permitted to do so, every heir would have done that, and then, when the testator died, they would take that for themselves and prevent him from bequeathing his third and what was permitted to him with respect to his property."

Malik said, "If he asks permission of his heirs to grant a bequest to an heir while he is well and they give him permission, that is not binding on them. The heirs can rescind that if they wish. That is because when a man is well, he is entitled to all his property and can do what he wishes with it. If he wishes, he can spend all of it. He can spend it and give sadaqa with it or give it to whomever he likes. His asking permission of his heirs is permitted for the heirs, when they give him permission when authority over all his property is closed off from him and nothing outside of the third is permitted to him, and when they are more entitled to the two-thirds of his property than he is himself. That is when their permission becomes relevant. If he asks one of the heirs to give his inheritance to him when he is dying, and the heir agrees and then the dying man does not dispose of it at all, it is returned to the one who gave it unless the deceased said to him, 'So-and-so - (one of his heirs) - is weak, and I would like you to give him your inheritance.' So he gives it to him. That is permitted when the deceased specified it for him."

Malik said, "When a man gives the dying man free use of his share of the inheritance, and the dying man distributes some of it and some remains, it is returned to the giver, after the man has died."

Yahya said that he heard Malik speak about someone who made a bequest and mentioned that he had given one of his heirs something which he had not taken possession of, so the heirs refused to permit that. Malik said, "That gift returns to the heirs as inheritance according to the Book of Allah because the deceased did not mean that to be taken out of the third and the heirs do not have a portion in the third (which the dying man is allowed to bequeath)."

Section: Effeminate Men and Custody of Children

Book 37, Number 37.6.5:

Malik said from Hisham ibn Urwa from his father that an effeminate man was with Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace. He

said to Abdullah ibn Abi Umayya while the Messenger of Allah, may Allah bless him and grant him peace, was listening. "Abdullah! If Allah grants you victory over Ta'if tomorrow, I will lead you to the daughter of Ghailan. She has four folds on her front and eight folds on her back." The Messenger of Allah, may Allah bless him and grant him peace, said, "This sort of man should not enter freely with you." (It was customary to allow men with no sexual inclination to enter freely where there were women).

Book 37, Number 37.6.6:

Malik related to me that Yahya ibn Said said that he heard al-Qasim ibn Muhammad say, "A woman of the Ansar was married to Umar ibn al-Khattab. She bore Asim ibn Umar to him, and then he separated from her. Umar came to Quba and found his son Asim playing in the courtyard of the mosque. He took him by the arm and placed him before him on his mount. The grandmother of the child saw him and argued with Umar about the child so they went to Abu Bakr as-Siddiq. Umar said, 'My son.' The woman said, 'My son.' Abu Bakr said, 'Do not interfere between a child and its mother.' Umar did not repeat his words."

Yahya said that he heard Malik say, "This is what I would have done in that situation."

Section: Liability for Defect Goods

Book 37, Number 37.7.6a:

Yahya said that he heard Malik speak about a man who bought goods - animals or clothes or wares, and the sale was found not to be permitted so it was revoked and the one who had taken the goods was ordered to return the owner his goods. Malik said, "The owner of the goods only has their value on the day they were taken from him, and not on the day they are returned to him. That is because the man is liable for them from the day he took them and whatever loss is in them after that is against him. For that reason, their increase and growth are also his. A man may take the goods at a time when they are selling well and are in demand, and then have to return them at a time when they have fallen in price and no one wants them. For instance, the man may take the goods from the other man, and sell them for ten dinars or keep them while their price is that. Then he may have to return them while their price is only a dinar. He should not go off with nine dinars from the man's property. Or perhaps they are taken by the man, and he sells them for a dinar or keeps them, while their price is only a dinar, then he has to return them, and their value on the day he returns them is ten dinars. The one who took them does not have to pay nine dinars from his property to the owner. He is only obliged to pay the value of what he took possession of on the day it was taken ."

He said, "Part of what clarifies this is that when a thief steals goods, only their price on the day he stole them is looked at. If cutting off the hand is necessary because of it, that is done. If the cutting off is delayed, either because the thief is imprisoned until his situation is examined or he flees and then is caught, the delay of the cutting off of the hand does not make the hadd, which was obliged for him on the day he

stole, fall from him even if those goods become cheap after that. Nor does delay oblige cutting off the hand if it was not obliged on the day he took those goods, even if they become expensive after that."

Section: General Chapter on Making Judgement and Shying Away From It

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Book 37, Number 37.8.7:

Malik related to me from Yahya ibn Said that Abu'd-Darda wrote to Salman al-Farsi, "Come immediately to the holy land." Salman wrote back to him, "Land does not make anyone holy. Man's deeds make him holy. I have heard that you were put up as a doctor to treat and cure people. If you are innocent, then may you have delight! If you are a quack, then beware lest you kill a man and enter the Fire!" When Abu'd-Darda judged between two men, and they turned from him to go, he would look at them and say, "Come back to me, and tell me your story again. A quack! By Allah!"

Yahya said that he heard Malik say, "If someone makes use of a slave, without permission of its master, in anything important to him, whose like has a fee, he is liable for what befalls the slave if anything befalls him. If the slave is safe and his master asks for his wage for what he has done, that is the master's right. This is what is done in our community."

Yahya said that he heard Malik say about a slave who is part free and part enslaved, "His property is suspended in his hand and he cannot begin anything with it. He eats from it and clothes himself in an approved fashion. If he dies, his property belongs to the one to whom he is in slavery."

Yahya said that he heard Malik say, "The way of doing things in our community is that a parent can take his child to account for what he spends on him from the day the child has property, cash or goods, if the parent wants that."

Book 37, Number 37.8.8:

Malik related to me from Umar ibn Abd ar-Rahman ibn Dalaf al-Muzani from his father that a man from the Juhayna tribe used to buy camels before people set out for hajj and sell them at a higher price. Then he travelled quickly and used to arrive in Makka before the others who set out for hajj. He went bankrupt and his situation was put before Umar ibn al-Khattab, who said, "O People! al-Usayfi, al-Usayfi of the Juhayna, was satisfied with his deen and his trust because it was said of him that he arrived before the others on hajj. He used to incur debts which he was not careful to repay, so all of his property has been eaten up by it. Whoever has a debt against him, let him come to us tomorrow and we will divide his property between his creditors. Beware of debts! Their beginning is a worry and their end is destitution. "

Section: About Damages and Injuries Caused by Slaves

Book 37, Number 37.9.8a:

Yahya said that he heard Malik say, "The sunna with us about the crime of slaves is that the hand is not cut off for any harm that a slave causes a man, or something he pilfers, or something guarded which he steals, or hanging dates he cuts down or ruins, or steals. That is against the slave's person and does not exceed the price of the slave whether it is little or much. If his master wishes to give the value of what the slave took or ruined, or pay the blood-price for the injury, he pays it and keeps his slave. If he wishes to surrender him, he surrenders him, and none of that is against him. The master has the option in that."

Section: What is Permitted of Gifts

Book 37, Number 37.10.9:

Malik related to me from Ibn Shihab from Said ibn al-Musayyab that Uthman ibn Affan said, "If someone gives something to his small child who is not old enough to look after it himself, and in order that his gift might be permitted he makes the gift public and has it witnessed, the gift is permitted, even if the father keeps charge of it."

Malik said, "What is done in our community is that if a man gives his small child some gold or silver and then dies and he has it in his own keeping, the child has none of it unless the father set it aside in coin or placed it with a man to keep for the son. If he does that, it is permitted for the son."

Translation of Malik's Muwatta, Book 38:

Setting Free and Wala'

Section: Freeing a Share Held in a Slave

Book 38, Number 38.1.1:

Malik related to me from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace,said, "If a man frees his share of a slave and has enough money to cover the full price of the slave justly evaluated for him, he must buy out his partners so that the slave is completely freed. If he doesn't have the money, he partially frees him.

Malik said, "The generally agreed-on way of doing things among us in the case of slave whose master makes a bequest to free part of him - a third, a fourth, a half, or any share after his death, is that only the portion of him is freed that his master has named. This is because the freeing of that portion is only obliged to take place after the death of the master because the master has the option to withdraw the bequest as long as he lives. When the slave is freed from his master, the master is a testator and the testator only has access to free what he can take from his property, being the third of the property he is allowed to bequeath, and the rest of the slave is not free because the man's property has gone out of his hands. How can the rest of the slave which belongs to other people be free when they did not initiate the setting free and did not confirm it and they do not have the wala' established for them? Only the deceased could do that. He was the one who freed him and the one for whom the wala' was confirmed. That is not to be borne by another's property unless he bequeaths within the third of his property what remains of a lave to be freed. That is a request against his partners and inheritors and the partners must not refuse the slave that when it is within the third of the dead man's property because there is no harm in that to the inheritors."

Malik said, "If a man frees a third of his slave while he is critically ill, he must complete the emancipation so all of him is free from him, if it is within the third of his property that he has access to, because he is not treated in the same way as a man who frees a third of a slave after his death, because had the one who freed a third of his slave after his death lived, he could have cancelled it and the slave's being set free would be of no effect. The master who made the freeing of the third of the slave irrevocable in his illness, would still have to free all of him if he lived. If he died, the slave would be set free within the third of the bequest. That is because the command of the deceased is permissible in his third as the command of the healthy is permissible in all his property."

Section: Making Conditions when Freeing a Slave

Book 38, Number 38.2.2:

Malik said, "A master who frees a slave of his and settles his emancipation so that his testimony is permitted, his inviolability complete, and his right to inherit confirmed, cannot impose stipulations on him like what he imposes on a slave about property or service, nor get him to do anything of slavery, because the Messenger of Allah, may Allah bless him and grant him peace, said, "If a man frees his share of a slave and has enough money to cover the full price of the slave justly evaluated for him, he must give his partners their shares so the slave is completely free."

Malik commented, "If he owns the slave completely, it is more proper to free him completely and not mingle any slavery with it."

Section: People who Free Slaves and Own No Other Property

Book 38, Number 38.3.3:

Malik related to me from Yahya ibn Said and somebody else from al-Hasan ibn Abi al-Hasan al-Basri and from Muhammad ibn Sirin that a man in the time of the Messenger of Allah, may Allah bless him and grant him peace, freed six of his slaves while he was dying. The Messenger of Allah, may Allah bless him and grant him peace, drew lots between them and freed a third of those slaves.

Malik added that he had heard that the man did not have any property other than them.

Book 38, Number 38.3.4:

Malik related to me from Rabia ibn Abi Abd ar-Rahman that a man in the time of Aban ibn Uthman's amirate freed all of his slaves and did not have other property than them. Aban ibn Uthman took charge of the slaves and they were divided into three groups. Then he drew lots on the basis that which ever group drew the dead man's arrow would be free. The arrow fell to one of the thirds, and that third was freed.

Section: Judgement on the Property of Slaves when Set Free

Book 38, Number 38.4.5:

Malik related to me that he heard Ibn Shihab say, "The precedent of the sunna is that when a slave is freed, his property follows him."

Malik said, "One thing which makes clear that the property of a slave follows him when he is freed is that when the contract (mukatab) is written for his freedom, his property follows him even if he did not stipulate it. That is because the bond of kitaba is the bond of wala' when it is complete. The property of a slave and a mukatab is not treated in the same way as any children they may have. Their children are only treated in the same way as their own slaves, not in the same way as their property. This is because the sunna, in which there is no dispute, is that when a slave

is freed, his property follows him and his children do not follow him, and when a mukatab writes the contract for his freedom, his property follows him and his children do not follow him."

Malik said, "One thing which makes that clear is that when a slave or a mukatab are bankrupt, their property is taken but the mothers of their children and their children are not taken because they are not their property."

Malik said, "Another thing which makes it clear is that when a slave is sold and the person who buys him stipulates the inclusions of his property, his children are not included in his property."

Malik said, "Another thing which makes it clear is that when a slave does injure some one, he and his property are taken, and his children are not taken."

Section: Freeing Slaves who are Umm Walad and a General Chapter on Freeing

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Book 38, Number 38.5.6:

Malik related to me from Nafi from Abdullah ibn Umar that Umar ibn al-Khattab said, "If a slave-girl gives birth to a child by her master, he must not sell her, give her away, or bequeath her. He enjoys her and when he dies she is free ."

Book 38, Number 38.5.7:

Malik related to me that he had heard that a slave-girl came to Umar ibn al-Khattab (who had been beaten by her master with a red hot iron) and he set her free.

Malik said, "The generally agreed-on way of doing things among us is that a man is not permitted to be freed while he has a debt against him which exceeds his property. A boy is not allowed to be set free until he has reached puberty. The young person whose affairs are managed cannot set free in his property, even when he reaches puberty, until he manages his property."

Section: Slaves Permitted to be Freed when a Slave must be Freed by Obligation

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Book 38, Number 38.6.8:

Malik related to me from Hilal ibn Usama from Ata ibn Yasar that Umar ibn al-Hakam said, "I went to the Messenger of Allah, may Allah bless him and grant him peace, and said, 'Messenger of Allah, a slave girl of mine was tending my sheep. I came to her and one of the sheep was lost. I asked her about it and she said that a wolf had eaten it, so I became angry and I am one of the children of Adam, so I struck her on the face. As it happens, I have to set a slave free, shall I free her?' The Messenger of Allah, may Allah bless him and grant him peace, questioned her, 'Where is Allah?' She said, 'In heaven.' He said, 'Who am I?' She said, 'You are the Messenger of Allah.' The Messenger of Allah, may Allah bless him and grant him

peace, said, 'Free her.' "

Book 38, Number 38.6.9:

Malik related to me from Ibn Shihab from Ubaydullah ibn Abdullah ibn Utba ibn Masud that one of the Ansar came to the Messenger of Allah, may Allah bless him and grant him peace, with a black slave-girl of his. He said, "Messenger of Allah, I must set a slave free who is a mumina. If you think that she is mumina, I will free her." The Messenger of Allah, may Allah bless him and grant him peace, questioned her, "Do you testify that there is no god but Allah?" She said, "Yes." "Do you testify that Muhammad is the Messenger of Allah?" She said, "Yes." "Are you certain about the rising after death?" She said, "Yes." The Messenger of Allah, may Allah bless him and grant him peace, said, "Free her."

Book 38, Number 38.6.10:

Malik related to me that he had heard that al-Maqburi said that Abu Hurayra was asked whether a man who had to free a slave, could free an illegitimate child to fulfil that obligation. Abu Hurayra said, "Yes. That will give satisfaction for him."

Book 38, Number 38.6.11:

Malik related to me that he had heard that Fadala ibn Ubayd al-Ansari who was one of the companions of the Messenger of Allah, may Allah bless him and grant him peace, was asked whether it was permissible for a man who had to free a slave to free an illegitimate child. He said, "Yes, That will give satisfaction for him."

Section: Slaves Not Permitted to be Freed when a Slave must be Freed by Obligation

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Book 38, Number 38.7.12:

Malik related to me that he had heard that Abdullah ibn Umar was asked whether a slave could be bought on the specific condition that it was to be used to fulfil the obligation of freeing a slave, and he said, "No."

Malik said, "That is the best of what I have heard on the obligation of freeing slaves. Someone who has to set a slave free because of an obligation on him, may not buy one on the condition that he sets it free because if he does that, whatever he buys is not completely a slave because he has reduced its price by the condition he has made of setting it free."

Malik added, "There is no harm, however, in someone buying a person expressly to set him free."

Malik said, "The best of what I have heard on the obligation of freeing slaves is that it is not permitted to free a christian or a jew to fulfil it, and one does not free a mukatab or a mudabbar or an umm walad or a slave to be freed after a certain number of years, or a blind person. There is no harm in freeing a christian, jew, or magian

voluntarily, because Allah, the Blessed, the Exalted, said in His Book, 'either as a favour then or by ransom,' (Sura 47 ayat 4) The favour is setting free."

Malik said, "As for obligations of freeing slaves which Allah has mentioned in the Book, one only frees a mumin slave for them."

Malik said, "It is like that in feeding poor people for kaffara. One must only feed muslims and one does not feed anyone outside of the deen of Islam."

Section: Freeing the Living for the Dead

Book 38, Number 38.8.13:

13 Malik related to me from Abd ar-Rahman ibn Abi Amra al-Ansari that his mother had wanted to make a bequest, but she delayed until morning and died. She had intended to set someone free, so Abd ar-Rahman said, 'I said to al-Qasim ibn Muhammad, 'Will it help her if I free a slave for her?' Al-Qasim replied, 'Sad ibn Ubada said to the Messenger of Allah, may Allah bless him and grant him peace, 'My mother died, will it help her if I set a slave free for her?' The Messenger of Allah, may Allah bless him and grant him peace, said "Yes." "'

Book 38, Number 38.8.14:

Malik related to me that Yahya ibn Said said, "Abd ar-Rahman ibn Abi Bakr died in his sleep, and A'isha, the wife of the Prophet, may Allah bless him and grant him peace, set free many slaves for him." Malik said, "This is what I like best of what I have heard on the subject."

Section: The Excellence of Freeing Slaves, Freeing Adulteresses and Illegitimate Children

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Book 38, Number 38.9.15:

Malik related to me from Hisham ibn Urwa from his father from A'isha, the wife of the Prophet, may Allah bless him and grant him peace, that the Messenger of Allah, may Allah bless him and grant him peace, was asked what was the most excellent kind of slave to free. The Messenger of Allah, May Allah bless him and grant him peace, answered, "The most expensive and the most valuable to his master."

Book 38, Number 38.9.16:

Malik related to me from Nafi that Abdullah ibn Umar freed an illegitimate child and its mother.

Section: The Right of the One who Sets Free to the Wala'

Book 38, Number 38.10.17:

Malik related to me from Hisham ibn Urwa from his father that A'isha, the wife of

the Prophet, may Allah bless him and grant him peace, said, "Barira came to me and said, 'I have written myself as mukatab for my people for nine uqiyas, one uqiya per year, so help me.' A'isha said, 'If your people agree that I pay it all to them for you, and that if I pay it, your wala' is mine, then I will do it.' Barira went to her masters and told them that and they didn't agree. She came back from her masters while the Messenger of Allah, may Allah bless him and grant him peace, was sitting. She said to A'isha, 'I offered that to them and they refused me unless they had the wala'.' The Messenger of Allah, may Allah bless him and grant him peace, heard that and asked her about it A'isha told him and the Messenger of Allah, may Allah bless him and grant him peace, said, 'Take her and stipulate that the wala' is yours, for the wala' is for the one who sets free.' So A'isha did that and then the Messenger of Allah, may Allah bless him and grant him peace, stood up in front of the people, and praised Allah and gave thanks to Him. Then he said, 'What is wrong with the people who make conditions which are not in the Book of Allah? Any condition which is not in the Book of Allah is invalid even if it is a hundred conditions. The decree of Allah is truer and the conditions of Allah are firmer, and the wala' only belongs to the one who sets free.' "

Book 38, Number 38.10.18:

Malik related to me from Nafi from Abdullah ibn Umar that A'isha umm al-muminin wanted to buy a slave-girl and set her free. Her people said, "We will sell her to you provided that her wala' is ours." She mentioned that to the Messenger of Allah, may Allah bless him and grant him peace, and he said, "Don't let that hinder you, for the wala' only belongs to the one who sets free."

Book 38, Number 38.10.19:

Malik related to me from Yahya ibn Said from Amra bint Abd ar-Rahman that Barira came asking the help of A'isha, umm al-muminin. A'isha said, "If your masters agree that I pay them your price in one lump sum and set you free I will do it." Barira mentioned that to her masters and they said, "No, not unless your wala' is ours." Yahya ibn Said added that Amra bint Abd ar-Rahman claimed that A'isha mentioned that to the Messenger of Allah, may Allah bless him and grant him peace, and the Messenger of Allah, may Allah bless him and grant him peace said, "Buy her and set her free. The wala' only belongs to the one who sets free."

Book 38, Number 38.10.20:

Malik related to me from Abdullah ibn Dinar from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, forbade selling or giving away the wala'.

Malik said that it was not permissible for a slave to buy himself from his master on the provision that he could give the wala' to whomever he wished as the wala' was for the one who set him free, and that had a man given permission to his mawla to give the wala' to whomever he wished, that would not have been permitted, because the Messenger of Allah, may Allah bless him and grant him peace, had said, "The

wala' is for the one who sets free. " The Messenger of Allah, may Allah bless him and grant him peace, forbade selling or giving away the wala'. For if it was permitted to the master to stipulate that for him and to give him permission to give the wala' to whomever he liked, that would be a gift.

Section: Slaves Attracting the Wala' When Set Free

Book 38, Number 38.11.21:

Malik related to me from Rabia ibn Abd ar-Rahman that az-Zubayr ibn al-Awwam bought a slave and set him free. The slave had children by a free woman. When az-Zubayr freed him, he said, "They are my mawali." The man argued, "They are the mawali of their mother. Rather, they are our mawali." They took the dispute to Uthman ibn Affan, and Uthman gave a judgement that az-Zubayr had their wala'.

Malik related to me that he had heard that Said ibn al-Musayyab was asked who had the wala' of the children whom a slave had by a free woman. Said said, "If their father dies and he is a slave who was not set free, their wala' belongs to the mawali of their mother."

Malik said, "That is like the child of a woman who is a mawla who has been divorced by lian; the child is attached to the mawali of his mother and they are his mawali. If he dies, they inherit from him. If he commits a crime, they pay the blood-money for him. If his father acknowledges him, he is given a kinship to him and his wala' goes to the mawali of his father. They are his heirs, they pay his blood-money and his father is punished with the hadd-punishment."

Malik said, "It is like that with a free-born woman divorced by lian. If her husband who curses her by lian does not acknowledge her child, the child is dealt with in the same way except that the rest of his inheritance after the inheritance of his mother and his brothers from his mother goes to all the muslims as long as he was not given kinship to his father. The child of the lian is attached to the patronage of the mawali of his mother until his father acknowledges him because he does not have a lineage or paternal relations. If his lineage is confirmed, it goes to his paternal relations."

Malik said, "The generally agreed-on way of doing things among us about a child of a slave by a free woman, while the father of the slave is free, is that the grandfather (the father of the slave), attracts the wala' of his son's free children by a free woman. They leave their inheritance to him as long as their father is a slave. If the father becomes free, the wala' returns to his mawali. If he dies and he is still a slave, the inheritance and the wala' go to the grandfather. If the slave has two free sons, and one of them dies while the father is still a slave, the grandfather, the father of the father, attracts the wala' and the inheritance."

Malik spoke about a slave-girl who was set free while she was pregnant and her husband was a slave and then her husband became free before she gave birth, or after she gave birth. He said, "The wala' of what is in her womb goes to the person who set the mother free because slavery touched the child before the mother was set free. It is not treated in the same way as a child conceived by its mother after she has been

set free because the wala' of such a child, is attracted by the father when he is set free."

Malik said that if a slave asked his master's permission to free a slave of his and his master gave permission, the wala' of the freed slave went to the master of his master, and his wala' did not return to the master who had set him free, even if he were to become free himself."

Section: The Inheritance of the Wala'

Book 38, Number 38.12.22:

Malik related to me from Abdullah ibn Abi Bakr ibn Muhammad ibn Amr ibn Hazm from Abd al-Malik ibn Abi Bakr ibn Abd ar-Rahman ibn al-Harith ibn Hisham that his father told him that al-Asi ibn Hisham had died and left three sons, two by one wife and one by another wife. One of the two with the same mother died and left property and mawali. His full brother inherited his property and the wala' of his mawali. Then he also died, and left as heirs his son and his paternal half brother. His son said, "I obtain what my father inherited of property and the wala' of the mawali." His brother said, "It is not like that. You obtain the property. As for the wala' of the mawali, it is not so. Do you think that had it been my first brother who died today, I would not have inherited from him?" They argued and went to Uthman ibn Affan. He gave a judgement that the brother had the wala' of the mawali.

Book 38, Number 38.12.23:

Malik related to me from Abdullah ibn Abi Bakr ibn Hazm that his father told him that he was sitting with Aban ibn Uthman, and an argument was brought to him between some people from the Juhayna tribe and some people from the Banu al-Harith ibn al-Khazraj. A woman of the Juhayna tribe was married to a man from the Banu al-Harith ibn al-Khazraj, called Ibrahim ibn Kulayb. She died and left property and mawali, and her son and husband inherited them from her. Then her son died and his heirs said, "We have the wala' of the mawali. Her son obtained them." Those of the Juhayna said, "It is not like that. They are the mawali of our female associate. When her child died, we have their wala' and we inherit them." Aban ibn Uthman gave a judgement that the people from the Juhayna tribe did indeed have the wala' of the mawali.

Book 38, Number 38.12.24:

Malik related to me that he had heard that Said ibn al-Musayyab spoke about a man who died and left three sons and left mawali whom he had freed. Then two of his sons died and left children. He said, "The third remaining son inherits the mawali. When he dies, his children and the children of his brothers share equally in the wala' of the mawali."

Section: The Inheritance of Slaves Set Free and the Wala' of Jews and Christians Who Set Slaves Free

Book 38, Number 38.13.25:

Malik related to me that he had asked Ibn Shihab about a slave who was released. He said, "He gives his wala' to whomever he likes. If he dies and has not given his wala' to anyone, his inheritance goes to the muslims and his blood-money is paid by them."

Malik said, "The best of what has been heard about a slave who is released is that no one gets his wala', and his inheritance goes to the muslims, and they pay his blood-money."

Malik said that when the slave of a jew or christian became muslim and he was freed before being sold, the wala' of the freed slave went to the muslims. If the jew or christian became muslim afterwards, the wala' did not revert to him. "

He said, "However, if a jew or christian frees a slave from their own deen, and then the freed one becomes muslim before the jew or christian who freed him becomes muslim and then the one who freed him has become muslim, his wala' reverts to him because the wala' was confirmed for him on the day he freed him."

Malik said that the muslim child of a jew or christian inherited the mawali of his jewish or christian father when the freed mawla became muslim before the one who freed him became muslim. If the freed one was already muslim when he was freed, the muslim children of the christian or jew had nothing of the wala' of a muslim slave because the jew and the christian did not have the wala'. The wala' of a muslim slave went to the community of muslims.

Translation of Malik's Muwatta, Book 39:

The Mukatab

Section: Judgement on the Mukatab

Book 39, Number 39.1.1:

Malik related to me from Nafi that Abdullah ibn Umar said, "A mukatab is a slave as long as any of his kitaba remains to be paid."

Book 39, Number 39.1.2:

Malik related to me that he had heard that Urwa ibn az-Zubayr and Sulayman ibn Yasar said, "The mukatab is a slave as long as any of his kitaba remains to be paid."

Malik said, "This is my opinion as well."

Malik said, "If a mukatab dies and leaves more property than what remains to be paid of his kitaba and he has children who were born during the time of his kitaba or whose kitaba has been written as well, they inherit any property that remains after the kitaba has been paid."

Book 39, Number 39.1.3:

Malik related to me from Humayd ibn Qays al-Makki that a son of al-Mutawakkil had a mukatab who died at Makka and left (enough to pay) the rest of his kitaba and he owed some debts to people. He also left a daughter. The governor of Makka was not certain about how to judge in the case, so he wrote to Abd al-Malik ibn Marwan to ask him about it. Abd al-Malik wrote to him, "Begin with the debts owed to people, and then pay what remains of his kitaba. Then divide what remains of the property between the daughter and the master."

Malik said, "What is done among us is that the master of a slave does not have to give his slave a kitaba if he asks for it. I have not heard of any of the Imams forcing a man to give a kitaba to his slave. I heard that one of the people of knowledge, when someone asked about that and mentioned that Allah the Blessed, the Exalted, said, 'Give them their kitaba, if you know some good in them' (Sura 24 ayat 33) recited these two ayats, 'When you are free of the state of ihram, then hunt for game.' (Sura 5 ayat 3) 'When the prayer is finished, scatter in the land and seek Allah's favour.' " (Sura 62 ayat 10)

Malik commented, "It is a way of doing things for which Allah, the Mighty, the Majestic, has given permission to people, and it is not obligatory for them." Malik said, "I heard one of the people of knowledge say about the word of Allah, the

Blessed, the Exalted, 'Give them of the wealth which Allah has given you,' that it meant that a man give his slave a kitaba and then reduce the end of his kitaba for him by some specific amount."

Malik said, "This is what I have heard from the people of knowledge and what I see people doing here."

Malik said, "I have heard that Abdullah ibn Umar gave one of his slaves his kitaba for 35,000 dirhams, and then reduced the end of his kitaba by 5,000 dirhams."

Malik said, "What is done among us is that when a master gives a mukatab his kitaba, the mukatab's property goes with him but his children do not go with him unless he stipulates that in his kitaba."

Yahya said, "I heard Malik say that if a mukatab whose master had given him a kitaba had a slave-girl who was pregnant by him, and neither he nor his master knew that on the day he was given his kitaba, the child did not follow him because he was not included in the kitaba. He belonged to the master. As for the slave-girl, she belonged to the mukatab because she was his property."

Malik said that if a man and his wife's son (by another husband) inherited a mukatab from the wife and the mukatab died before he had completed his kitaba, they divided his inheritance between them according to the Book of Allah. If the slave paid his kitaba and then died, his inheritance went to the son of the woman, and the husband had nothing of his inheritance.

Malik said that if a mukatab gave his own slave a kitaba, the situation was looked at. If he wanted to do his slave a favour and it was obvious by his making it easy for him, that was not permitted. If he was giving him a kitaba from desire to find money to pay off his own kitaba, that was permitted for him.

Malik said that if a man had intercourse with a mukataba of his and she became pregnant by him, she had an option. If she liked she could be an umm walad. If she wished, she could confirm her kitaba. If she did not conceive, she still had her kitaba.

Malik said, "The generally agreed on way of doing things among us about a slave who is owned by two men is that one of them does not give a kitaba for his share, whether or not his companion gives him permission to do so, unless they both write the kitaba together, because that alone would effect setting him free. If the slave were to fulfil what he had agreed on to free half of himself, and then the one who had given a kitaba for half of him was not obliged to complete his setting free, that would be in opposition to the words of the Messenger of Allah, may Allah bless him and grant him peace. 'If someone frees his share in a slave and has enough money to cover the full price of the slave, justly evaluated for him, he must give his partners their shares, so the slave is completely free . ' "

Malik said, "If he is not aware of that until the mukatab has met the terms or before he has met them the owner who has written him the kitaba returns what he has taken from the mukatab to him, and then he and his partner divide him according to their original shares and the kitaba is invalid. He is the slave of both of them in his

original state."

Malik spoke about a mukatab who was owned by two men and one of them granted him a delay in the payment of the right which he was owed, and the other refused to defer it, and so the one who refused to defer the payment exacted his part of the due. Malik said that if the mukatab then died and left property which did not complete his kitaba, "They divide it according to what they are still owed by him. Each of them takes according to his share. If the mukatab leaves more than his kitaba, each of them takes what remains to them of the kitaba, and what remains after that is divided equally between them. If the mukatab is unable to pay his kitaba fully and the one who did not allow him to defer his payment has exacted more than his associate did, the slave is still divided equally between them, and he does not return to his associates the excess of what he has exacted, because he only exacted his right with the permission of his associate. If one of them remits what is owed to him and then his associate exacts part of what he is owed by him and then the mukatab is unable to pay, he belongs to both of them. And the one who has exacted something does not return anything because he only demanded what he was owed. That is like the debt of two men in one writing against one man. One of them grants him time to pay and the other is greedy and exacts his due. Then the debtor goes bankrupt. The one who exacted his due does not have to return any of what he took."

Section: Assuming the Responsibility in Kitaba

Book 39, Number 39.2.4:

Malik said, "The generally agreed on way of doing things among us is that when slaves write their kitaba together in one kitaba, and some are responsible for others, and they are not reduced anything by the death of one of the responsible ones, and then one of them says, 'I can't do it,' and gives up, his companions can use him in whatever work he can do and they help each other with that in their kitaba until they are freed, if they are freed, or remain slaves if they remain slaves."

Malik said, "The generally agreed on way of doing things among us is that when a master gives a slave his kitaba, it is not permitted for the master to let anyone assume the responsibility for the kitaba of his slave if the slave dies or is incapable. This is not part of the sunna of the muslims. That is because when a man assumes responsibility to the master of a mukatab for what the mukatab owes of his kitaba, and then the master of the mukatab pursues that from the one who assumes the responsibility, he takes his money falsely. It is not as if he is buying the mukatab, so that what he gives is part of the price of something that is his, and neither is the mukatab being freed so that the price established for him buys his inviolability as a free man. If the mukatab is unable to meet the payments he reverts to his master and is his slave. That is because kitaba is not a fixed debt which can be assumed by the master of the mukatab. It is something which, when it is paid by the mukatab, sets him free. If the mukatab dies and has a debt, his master is not one of the creditors for what remains unpaid of the kitaba. The creditors have precedence over the master. If the mukatab cannot meet the payments, and he owes debts to people, he reverts to being a slave owned by his master and the debts to the people are the liability of the mukatab. The creditors do not enter with the master into any share of the price of his

person."

Malik said, "When people are written together in one kitaba and there is no kinship between them by which they inherit from each other, and some of them are responsible for others, then none of them are freed before the others until all the kitaba has been paid. If one of them dies and leaves property and it is more than all of what is against them, it pays all that is against them . The excess of the property goes to the master, and none of those who have been written in the kitaba with the deceased have any of the excess. The master's claims are overshadowed by their claims for the portions which remain against them of the kitaba which can be fulfilled from the property of the deceased, because the deceased had assumed their responsibility and they must use his property to pay for their freedom. If the deceased mukatab has a free child not born in kitaba and who was not written in the kitaba, it does not inherit from him because the mukatab was not freed until he died."

Section: Severance in the Kitaba for an Agreed Price

Book 39, Number 39.3.5:

Malik related to me that he heard that Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, made a settlement with her mukatab for an agreed amount of gold and silver.

Malik said, "The generally agreed on way of doing things among us in the case of a mukatab who is shared by two partners, is that one of them cannot make a settlement with him for an agreed price according to his portion without the consent of his partner. That is because the slave and his property are owned by both of them, and so one of them is not permitted to take any of the property except with the consent of his partner. If one of them settled with the mukatab and his partner did not, and he took the agreed price, and then the mukatab died while he had property or was unable to pay, the one who settled would not have anything of the mukatab's property and he could not return that for which he made settlement so that his right to the slave's person would return to him. However, when someone settles with a mukatab with the permission of his partner and then the mukatab is unable to pay, it is preferable that the one who broke with him return what he has taken from the mukatab for the severance and he can have back his portion of the mukatab. He can do that. If the mukatab dies and leaves property, the partner who has kept hold of the kitaba is paid in full the amount of the kitaba which remains to him against the mukatab from the mukatab's property. Then what remains of property of the mukatab is between the partner who broke with him and his partner, according to their shares in the mukatab. If one of the partners breaks off with him and the other keeps the kitaba, and the mukatab is unable to pay, it is said to the partner who settled with him, 'If you wish to give your partner half of what you took so the slave is divided between you, then do so. If you refuse, then all of the slave belongs to the one who held on to possession of the slave.' "

Malik spoke about a mukatab who was shared between two men and one of them made a settlement with him with the permission of his partner. Then the one who retained possession of the slave demanded the like of that for which his partner had

settled or more than that and the mukatab could not pay it. He said, "The mukatab is shared between them because the man has only demanded what is owed to him. If he demands less than what the one who settled with him took and the mukatab can not manage that, and the one who settled with him prefers to return to his partner half of what he took so the slave is divided in halves between them, he can do that. If he refuses then all of the slave belongs to the one who did not settle with him. If the mukatab dies and leaves property, and the one who settled with him prefers to return to his companion half of what he has taken so the inheritance is divided between them, he can do that. If the one who has kept the kitaba takes the like of what the one who has settled with him took, or more, the inheritance is between them according to their shares in the slave because he is only taking his right."

Malik spoke about a mukatab who was shared between two men and one of them made a settlement with him for half of what was due to him with the permission of his partner, and then the one who retained possession of the slave took less than what his partner settled with him for and the mukatab was unable to pay. He said, "If the one who made a settlement with the slave prefers to return half of what he was awarded to his partner, the slave is divided between them. If he refuses to return it, the one who retained possession has the portion of the share for which his partner made a settlement with the mukatab."

Malik said, "The explanation of that is that the slave is divided in two halves between them. They write him a kitaba together and then one of them makes a settlement with the mukatab for half his due with the permission of his partner. That is a fourth of all the slave. Then the mukatab is unable to continue, so it is said to the one who settled with him, 'If you wish, return to your partner half of what you were awarded and the slave is divided equally between you.' If he refuses, the one who held to the kitaba takes in full the fourth of his partner for which he made settlement with the mukatab. He had half the slave, so that now gives him three-fourths of the slave. The one who broke off has a fourth of the slave because he refused to return the equivalent of the fourth share for which he settled."

Malik spoke about a mukatab whose master made a settlement with him and set him free and what remained of his severance was written against him as debt, then the mukatab died and people had debts against him. He said, "His master does not share with the creditors because of what he is owed from the severance. The creditors begin first."

Malik said, "A mukatab cannot break with his master when he owes debts to people. He would be set free and have nothing because the people who hold the debts are more entitled to his property than his master. That is not permitted for him."

Malik said, "According to the way things are done among us, there is no harm if a man gives a kitaba to his slave and settles with him for gold and reduces what he is owed of the kitaba provided that only the gold is paid immediately. Whoever disapproves of that does so because he puts it in the category of a debt which a man has against another man for a set term. He gives him a reduction and he pays it immediately. This is not like that debt. The breaking of the mukatab with his master is dependent on his giving money to speed up the setting free. Inheritance, testimony

and the hudud are obliged for him and the inviolability of being set free is established for him. He is not buying dirhams for dirhams or gold for gold. Rather it is like a man who having said to his slave, 'Bring me such-and-such an amount of dinars and you are free', then reduces that for him, saying, 'If you bring me less than that, you are free.' That is not a fixed debt. Had it been a fixed debt, the master would have shared with the creditors of the mukatab when he died or went bankrupt. His claim on the property of the mukatab would join theirs."

Section: Injuries Caused by Mukatabs

Book 39, Number 39.4.6:

Malik said, "The best of what I have heard about a mukatab who injures a man so that blood-money must be paid, is that if the mukatab can pay the blood-money for the injury with his kitaba, he does so, and it is against his kitaba. If he cannot do that, and he cannot pay his kitaba because he must pay the blood-money of that injury before the kitaba, and he cannot pay the blood-money of that injury, then his master has an option. If he prefers to pay the blood-money of that injury, he does so and keeps his slave and he becomes an owned slave. If he wishes to surrender the slave to the injured, he surrenders him. The master does not have to do more than surrender his slave."

Malik spoke about people who were in a general kitaba and one of them caused an injury which entailed blood-money. He said, "If any of them does an injury involving blood-money, he and those who are with him in the kitaba are asked to pay all the blood-money of that injury. If they pay, they are confirmed in their kitaba. If they do not pay, and they are incapable then their master has an option. If he wishes, he can pay all the blood-money of that injury and all the slaves revert to him. If he wishes, he can surrender the one who did the injury alone and all the others revert to being his slaves since they could not pay the blood-money of the injury which their companion caused."

Malik said, "The way of doing things about which there is no dispute among us, is that when a mukatab is injured in some way which entails blood-money or one of the mukatab's children who is written with him in the kitaba is injured, their blood-money is the blood-money of slaves of their value, and what is appointed to them as their blood-money is paid to the master who has the kitaba and he reckons that for the mukatab at the end of his kitaba and there is a reduction for the blood-money that the master has taken for the injury."

Malik said, "The explanation of that is say, for example, he has written his kitaba for three thousand dirhams and the blood-money taken by the master for his injury is one thousand dirhams. When the mukatab has paid his master two thousand dirhams he is free. If what remains of his kitaba is one thousand dirhams and the blood-money for his injury is one thousand dirhams, he is free straightaway. If the blood-money of the injury is more than what remains of the kitaba, the master of the mukatab takes what remains of his kitaba and frees him. What remains after the payment of the kitaba belongs to the mukatab. One must not pay the mukatab any of the blood-money of his injury in case he might consume it and use it up. If he could

not pay his kitaba completely he would then return to his master one eyed, with a hand cut off, or crippled in body. His master only wrote his kitaba against his property and earnings, and he did not write his kitaba so that he would take the blood-money for what happened to his child or to himself and use it up and consume it. One pays the blood-money of injuries to a mukatab and his children who are born in his kitaba, or their kitaba is written, to the master and he takes it into account for him at the end of his kitaba."

Section: Selling Mukatabs

Book 39, Number 39.5.7:

Malik said, "The best of what is said about a man who buys the mukatab of a man is that if the man wrote the slave's kitaba for dinars or dirhams, he does not sell him unless it is for merchandise which is paid immediately and not deferred, because if it is deferred, it would be a debt for a debt. A debt for a debt is forbidden."

He said, "If the master gives a mukatab his kitaba for certain merchandise of camels, cattle, sheep, or slaves, it is more correct that the buyer buy him for gold, silver, or different goods than the ones his master wrote the kitaba for, and that must be paid immediately, not deferred."

Malik said, "The best of what I have heard about a mukatab when he is sold is that he is more entitled to buy his kitaba than the one who buys him if he can pay his master the price for which he was sold in cash. That is because his buying himself is his freedom, and freedom has priority over what bequests accompany it. If one of those who have written the kitaba for the mukatab sells his portion of him, so that a half, a third, a fourth, or whatever share of the mukatab is sold, the mukatab does not have the right of pre-emption in what is sold of him. That is because it is like the severance of a partner, and a partner can only make a settlement for a partner of the one who is mukatab with the permission of his partners because what is sold of him does not give him complete rights as a free man and his property is barred from him, and by buying part of himself, it is feared that he will become incapable of completing payment because of what he had to spend. That is not like the mukatab buying himself completely unless whoever has some of the kitaba remaining due to him gives him permission. If they give him permission, he is more entitled to what is sold of him."

Malik said, "Selling one of the instalments of a mukatab is not halal. That is because it Is an uncertain transaction. If the mukatab cannot pay it, what he owes is nullified. If he dies or goes bankrupt and he owes debts to people, then the person who bought his instalment does not take any of his portion with the creditors. The person who buys one of the instalments of the mukatab is in the position of the master of the mukatab. The master of the mukatab does not have a share with the creditors of the mukatab for what he is owed of the kitaba of his slave. It is also like that with the kharaj, (a set amount deducted daily from the slave against his earnings), which accumulates for a master from the earnings of his slave. The creditors of his slave do not allow him a share for what has accumulated for him from those deductions."

Malik said, "There is no harm in a mukatab paying off his kitaba with coin or merchandise other than the merchandise for which he wrote his kitaba if it is identical with it, on time (for the instalment) or delayed. "

Malik said that if a mukatab died and left an umm walad and small children by her or by someone else and they could not work and it was feared that they would be unable to fulfil their kitaba, the umm walad of the father was sold if her price would pay all the kitaba for them, whether or not she was their mother. They were paid for and set free because their father did not forbid her sale if he feared that he would be unable to complete his kitaba. If her price would not pay for them and neither she nor they could work, they all reverted to being slaves of the master.

Malik said, "What is done among us in the case of a person who buys the kitaba of a mukatab, and then the mukatab dies before he has paid his kitaba, is that the person who bought the kitaba inherits from him. If, rather than dying, the mukatab cannot pay, the buyer has his person. If the mukatab pays his kitaba to the person who bought him and he is freed, his wala' goes to the person who wrote the kitaba and the person who bought his kitaba does not have any of it."

Section: The Labour of Mukatabs

Book 39, Number 39.6.8:

Malik related to me that he heard that Urwa ibn az-Zubayr and Sulayman ibn Yasar when asked whether the sons of a man, who had a kitaba written for himself and his children and then died, worked for the kitaba of their father or were slaves, said, "They work for the kitaba of their father and they have no reduction at all for the death of their father."

Malik said, "If they are small and unable to work, one does not wait for them to grow up and they are slaves of their father's master unless the mukatab has left what will pay their instalments for them until they can work. If there is enough to pay for them in what he has left, that is paid for on their behalf and they are left in their condition until they can work, and then if they pay, they are free. If they cannot do it, they are slaves."

Malik spoke about a mukatab who died and left property which was not enough to pay his kitaba, and he also left a child with him in his kitaba and an umm walad, and the umm walad wanted to work for them. He said, "The money is paid to her if she is trustworthy with it and strong enough to work. If she is not strong enough to work and not trustworthy with property, she is not given any of it and she and the children of the mukatab revert to being slaves of the master of the mukatab."

Malik said, "If people are written together in one kitaba and there is no kinship between them, and some of them are incapable and others work until they are all set free, those who worked can claim from those who were unable, the portion of what they paid for them because some of them assumed the responsibility for others."

Section: Freeing a Mukatab if he Pays what he Owes before the End of the

Term

Book 39, Number 39.7.9:

> Malik related to me that he heard Rabia ibn Abi Abd ar-Rahman and others mention that al-Furafisa ibn Umar al-Hanafi had a mukatab who offered to pay him all of his kitaba that he owed. Al-Furafisa refused to accept it and the mukatab went to Marwan ibn al-Hakam who was the amir of Madina and brought up the matter. Marwan summoned al-Furafisa and told him to accept. He refused. Marwan then ordered that the payment be taken from the mukatab and placed in the treasury. He said to the mukatab "Go, you are free." When al-Furafisa saw that, he took the money.
>
> Malik said, "What is done among us when a mukatab pays all the instalments he owes before their term, is that it is permitted to him. The master cannot refuse him that. That is because payment removes every condition from the mukatab as well as service and travel. The setting free of a man is not complete while he has any remaining slavery, and neither would his inviolability as a free man be complete and his testimony permitted and inheritance obliged and such things in that situation. His master must not make any stipulation of service on him after he has been set free."
>
> Malik said that it was permitted for a mukatab who became extremely ill and wanted to pay his master all his instalments because his heirs who were free would then inherit from him and he had no children with him in his kitaba, to do so, because by that he completed his inviolability as a free man, his testimony was permitted, and his admission of what he owed of debts to people was permitted. His bequest was permitted as well. His master could not refuse him that by saying, "He is escaping from me with his property."

Section: The Inheritance of a Mukatab when he is Set Free

Book 39, Number 39.8.10:

> Malik related to me that he had heard that Said ibn al-Musayyab was asked about a mukatab who was shared between two men. One of them freed his portion and then the mukatab died and left a lot of money. Said replied, "The one who kept his kitaba is paid what remains due to him, and then they divide what is left between them both equally."
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> Malik said, "When a mukatab who fulfils his kitaba and becomes free dies, he is inherited from by the people who wrote his kitaba and their children and paternal relations - whoever is most deserving."
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> He said, "This is also for whoever is set free when he dies after being set free - his inheritance is for the nearest people to him of children or paternal relations who inherit by means of the wala'."
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> Malik said, "Brothers, written together in the same kitaba, are in the same position as children to each other when none of them have children written in the kitaba or born

in the kitaba. When one of them dies and leaves property, he pays for them all that is against them of their kitaba and sets them free. The money left over after that goes to his children rather than his brothers."

Section: Conditions Concerning Mukatabs

Book 39, Number 39.9.11:

Malik spoke to me about a man who wrote a kitaba for his slave for gold or silver and stipulated against him in his kitaba a journey, service, sacrifice or similar, which he specified by its name, and then the mukatab was able to pay all his instalments before the end of the term.

He said, "If he pays all his instalments and he is set free and his inviolability as a free man is complete, but he still has this condition to fulfil, the condition is examined, and whatever involves his person in it, like service or a journey etc., is removed from him and his master has nothing in it. Whatever there is of sacrifice, clothing, or anything that he must pay, that is in the position of dinars and dirhams, and is valued and he pays it along with his instalments, and he is not free until he has paid that along with his instalments."

Malik said, "The generally agreed-on way of doing things among us about which there is no dispute, is that a mukatab is in the same position as a slave whom his master will free after a service of ten years. If the master who will free him dies before ten years, what remains of his service goes to his heirs and his wala' goes to the one who contracted to free him and to his male children or paternal relations."

Malik spoke about a man who stipulated against his mukatab that he could not travel, marry, or leave his land without his permission, and that if he did so without his permission it was in his power to cancel the kitaba. He said, "If the mukatab does any of these things it is not in the man's power to cancel the kitaba. Let the master put that before the Sultan. The mukatab, however, should not marry, travel, or leave the land of his master without his permission, whether or not he stipulates that. That is because the man may write a kitaba for his slave for 100 dinars and the slave may have 1000 dinars or more than that. He goes off and marries a woman and pays her bride-price which sweeps away his money and then he cannot pay. He reverts to his master as a slave who has no property. Or else he may travel and his instalments fall due while he is away. He cannot do that and kitaba is not to be based on that. That is in the hand of his master. If he wishes, he gives him permission in that. If he wishes, he refuses it."

Section: The Wala' of the Mukatab when he is Set Free

Book 39, Number 39.10.12:

Malik said, "When a mukatab sets his own slaves free, it is only permitted for a mukatab to set his own slaves free with the consent of his master. If his master gives his consent and the mukatab sets his slave free, his wala' goes to the mukatab . If the mukatab then dies before he has been set free himself, the wala' of the freed slave

goes to the master of the mukatab. If the freed one dies before the mukatab has been set free, the master of the mukatab inherits from him."

Malik said, "It is like that also when a mukatab gives his slave a kitaba and his mukatab is set free before he is himself. The wala' goes to the master of the mukatab as long as he is not free. If this one who wrote the kitaba is set free, then the wala' of his mukatab who was freed before him reverts to him. If the first mukatab dies before he pays, or he cannot pay his kitaba and he has free children, they do not inherit the wala' of their father's mukatab because the wala' has not been established for their father and he does not have the wala' until he is free."

Malik spoke about a mukatab who was shared between two men and one of them forewent what the mukatab owed him and the other insisted on his due. Then the mukatab died and left property.

Malik said, "The one who did not abandon any of what he was owed, is paid in full. Then the property is divided between them both just as if a slave had died because what the first one did was not setting him free. He only abandoned a debt that was owed to him ."

Malik said, "One clarification of that is that when a man dies and leaves a mukatab and he also leaves male and female children and one of the children frees his portion of the mukatab, that does not establish any of the wala' for him. Had it been a true setting free, the wala' would have been established for whichever men and women freed him."

Malik said, "Another clarification of that is that if one of them freed his portion and then the mukatab could not pay, the value of what was left of the mukatab would be altered because of the one who freed his portion. Had it been a true setting-free, his estimated value would have been taken from the property of the one who set free until he had been set completely free as the Messenger of Allah, may Allah bless him and grant him peace, said, 'Whoever frees his share in a slave and has money to cover the full price of the slave, justly evaluated for him, gives his partners their shares. If not, he frees of him what he frees.' " (See Book 37 hadith 1).

He said, "Another clarification of that is that part of the sunna of the muslims in which there is no dispute, is that whoever frees his share of a mukatab, the mukatab is not set fully free using his property. Had he been truly set free, the wala' would have been his alone rather than his partners. Part of what will clarify that also is that part of the sunna of the muslims is that the wala' belongs to whoever writes the contract of kitaba. The women who inherit from the master of the mukatab do not have any of the wala' of the mukatab. If they free any of their share, the wala' belongs to the male children of the master of the mukatab or his male paternal relations."

Section: What is Not Permitted in Freeing a Mukatab

Book 39, Number 39.11.13:

Malik said, "If people are together in one kitaba, their master cannot free one of them

without consulting his companions who are with him in the kitaba and obtaining their consent. If they are young, however, their consultation means nothing and it is not permitted to them. That is because a man might work for all the people and he might pay their kitaba for them to complete their freedom. Their master approaches the one who will pay for them and their rescue from slavery is through him. He frees him and so makes those who remain unable to pay. He does it intending benefit and increase for himself. It is not permitted for him to do that to those of them who remain. The Messenger of Allah, may Allah bless him and grant him peace, said, 'There must be no harm nor return of harm.' This is the most severe harm."

Malik said about slaves who wrote a kitaba together that it was permitted for their master to free the old and exhausted of them and the young when neither of them could pay anything, and there was no help nor strength to be had from any of them in their kitaba.

Book 39, Number 39.11.14:

Malik said about a man who had his slave in a kitaba and then the mukatab died and left his umm walad, and there remained for him some of his kitaba to pay and he left what would pay it, "The umm walad is a slave since the mukatab was not freed until he died and he did not leave children that were set free by his paying what remained, so that the umm walad of their father was freed by their being set free."

Malik said about a mukatab who set free a slave of his or gave sadaqa with some of his property and his master did not know that until he had set the mukatab free, "That has been performed by him and the master does not rescind it. If the master of the mukatab knows before he sets the mukatab free, he can reject that and not permit it. If the mukatab is then freed and it becomes in his power to do so, he does not have to free the slave, nor give the sadaqa unless he does it voluntarily from himself."

Section: Bequests involving Mukatabs

Book 39, Number 39.12.15:

Malik said, The best of what I have heard about a mukatab whose master frees him at death, is that the mukatab is valued according to what he would fetch if he were sold. If that value is less than what remains against him of his kitaba, his freedom is taken from the third that the deceased can bequeath. One does not look at the number of dirhams which remain against him in his kitaba. That is because had he been killed, his killer would not be in debt for other than his value on the day he killed him. Had he been injured, the one who injured him would not be liable for other than the blood-money of the injury on the day of his injury. One does not look at how much he has paid of dinars and dirhams of the contract he has written because he is a slave as long as any of his kitaba remains. If what remains in his kitaba is less than his value, only whatever of his kitaba remains owing from him is taken into account in the third of the property of the deceased. That is because the deceased left him what remains of his kitaba and so it becomes a bequest which the deceased made."

Malik said, "The illustration of that is that if the price of the mukatab is one thousand

dirhams, and only one hundred dirhams remain of his kitaba, his master leaves him the one hundred dirhams which complete it for him. It is taken into account in the third of his master and by it he becomes free."

Malik said that if a man wrote his slave a kitaba at his death, the value of the slave was estimated. If there was enough to cover the price of the slave in one third of his property, that was permitted for him.

Malik said, "The illustration of that is that the price of the slave is one thousand dinars. His master writes him a kitaba for two hundred dinars at his death. The third of the property of his master is one thousand dinars, so that is permitted for him. It is only a bequest which he makes from one third of his property. If the master has left bequests to people, and there is no surplus in the third after the value of the mukatab, one begins with the mukatab because the kitaba is setting free, and setting free has priority over bequests. When those bequests are paid from the kitaba of the mukatab, they follow it. The heirs of the testator have a choice. If they want to give the people with bequests all their bequests and the kitaba of the mukatab is theirs, they have that. If they refuse and hand over the mukatab and what he owes to the people with bequests they can do that, because the third commences with the mukatab and because all the bequests which he makes are as one."

If the heirs then say, "What our fellow bequeathed was more than one third of his property and he has taken what was not his," Malik said, "His heirs choose. It is said to them, 'Your companion has made the bequests you know about and if you would like to give them to those who are to receive them according to the deceased's bequests, then do so. If not, hand over to the people with bequests one third of the total property of the deceased.' "

Malik continued, "If the heirs surrender the mukatab to the people with bequests, the people with bequests have what he owes of his kitaba. If the mukatab pays what he owes of his kitaba, they take that in their bequests according to their shares. If the mukatab cannot pay, he is a slave of the people with bequests and does not return to the heirs because they gave him up when they made their choice, and because when he was surrendered to the people with bequests, they were liable. If he died, they would not have anything against the heirs. If the mukatab dies before he pays his kitaba and he leaves property which is more than what he owes, his property goes to the people with bequests. If the mukatab pays what he owes, he is free and his wala' returns to the paternal relations of the one who wrote the kitaba for him."

Malik spoke about a mukatab who owed his master ten thousand dirhams in his kitaba, and when he died he remitted one thousand dirhams from it. He said, "The mukatab is valued and his value is taken into consideration. If his value is one thousand dirhams and the reduction is a tenth of the kitaba, that portion of the slave's price is one hundred dirhams. It is a tenth of the price. A tenth of the kitaba is therefore reduced for him. That is converted to a tenth of the price in cash. That is as if he had had all of what he owed reduced for him. Had he done that, only the value of the slave - one thousand dirhams - would have been taken into account in the third of the property of the deceased. If that which he had remitted is half of the kitaba, half the price is taken into account in the third of the property of the deceased. If it is

more or less than that, it is according to this reckoning."

Malik said, "When a man reduces the kitaba of his mukatab by one thousand dirhams at his death from a kitaba of ten thousand dirhams, and he does not stipulate whether it is from the beginning or the end of his kitaba, each instalment is reduced for him by one tenth."

Malik said, "If a man remits one thousand dirhams from his mukatab at his death from the beginning or end of his kitaba, and the original basis of the kitaba is three thousand dirhams, the mukatab's cash value is estimated. Then that value is divided. That thousand which is from the beginning of the kitaba is converted into its portion of the price according to its proximity to the term and its precedence and then the thousand which follows the first thousand is according to its precedence also until it comes to its end, and every thousand is paid according to its place in advancing and deferring the term because what is deferred of that is less in respect of its price. Then it is placed in the third of the deceased according to whatever of the price befalls that thousand according to the difference in preference of that, whether it is more or less, then it is according to this reckoning."

Malik spoke about a man who willed a man a fourth of a mukatab or freed a fourth, and then the man died and the mukatab died and left a lot of property, more than he owed. He said, "The heirs of the first master and the one who was willed a fourth of the mukatab are given what they are still owed by the mukatab. Then they divide what is left over, and the one willed a fourth has a third of what is left after the kitaba is paid. The heirs of his master gets two-thirds. That is because the mukatab is a slave as long as any of his kitaba remains to be paid. He is inherited from by the possession of his person."

Malik said about a mukatab whose master freed him at death, "If the third of the deceased will not cover him, he is freed from it according to what the third will cover and his kitaba is decreased according to that. If the mukatab owed five thousand dirhams and his value is two thousand dirhams cash, and the third of the deceased is one thousand dirhams, half of him is freed and half of the kitaba has been reduced for him." Malik said about a man who said in his will, "My slave so-and-so is free and write a kitaba for so-and-so", that the setting free had priority over the kitaba.

Translation of Malik's Muwatta, Book 40:

Hudud

Section: Judgement on the Mudabbar

Book 40, Number 40.1.1:

> Yahya related to me that Malik said, "What is done in our community in the case of a man who makes his slave-girl a mudabbara and she gives birth to children after that, and then the slave-girl dies before the one who gave her a tadbir is that her children are in her position. The conditions which were confirmed for her are confirmed for them. The death of their mother does not harm them. If the one who made her mudabbara dies, they are free if their value is less than one third of his total property."
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> Malik said, "For every mother by birth as opposed to mother by suckling, her children are in her position. If she is free and she gives birth after she is free, her children are free. If she is a mudabbara or mukataba, or freed after a number of years in service, or part of her is free or pledged or she is an umm walad, each of her children are in the same position as their mother. They are set free when she is set free and they are slaves when she is a slave."
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> Malik said about the mudabbara given a tadbir while she was pregnant, "Her children are in her position. That is also the position of a man who frees his slave-girl while she is pregnant and does not know that she is pregnant."
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> Malik said, "The sunna about such women is that their children follow them and are set free by their being set free."
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> Malik said, "It is the same as if a man had bought a slave-girl while she was pregnant. The slave-girl and what is in her womb belong to the one who bought her whether or not the buyer stipulates that."
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> Malik continued, "It is not halal for the seller to make an exception about what is in her womb because that is an uncertain transaction. It reduces her price and he does not know if that will reach him or not. That is as if one sold the foetus in the womb of the mother. That is not halal because it is an uncertain transaction ."
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> Malik said about the mukatab or mudabbar who bought a slave-girl and had intercourse with her and she became pregnant by him and gives birth, "The children of both of them by a slave-girl are in his position. They are set free when he is set free and they are slaves when he is a slave."
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> Malik said, "When he is set free, the umm walad is part of his property which is surrendered to him when he is set free."

Section: General Section on Tadbir

Book 40, Number 40.2.2:

Malik spoke about a mudabbar who said to his master, "Free me immediately and I will give fifty dinars which I will have to pay in instalments." His master said, "Yes. You are free and you must pay fifty dinars, and you will pay me ten dinars every year." The slave was satisfied with this. Then the master dies one, two or three days after that. He said, "The freeing is confirmed and the fifty dinars become a debt against him. His testimony is permitted, his inviolability as a free man is confirmed, as are his inheritance and his liability to the full hudud punishments. The death of his master, however, does not reduce the debt for him at all."

Malik said that if a man who made his slave a mudabbar died and he had some property at hand and some absent property, and in the property at hand there was not enough (in the third he was allowed to bequeath) to cover the value of the mudabbar, the mudabbar was kept there together with this property, and his tax (kharaj) was gathered until the master's absent property was clear. Then if a third of what his master left would cover his value, he was freed with his property and what had gathered of his tax. If there was not enough to cover his value in what his master had left, as much of him was freed as the third would allow, and his property was left in his hands.

Section: Bequests involving Tadbir

Book 40, Number 40.3.3:

Malik said, "The generally agreed-on way of doing things in our community is that any setting-free which a man makes in a bequest that he wills in health or illness can be rescinded by him when he likes and changed when he likes as long as it is not a tadbir. There is no way to rescind a tadbir once he has made it.

"As for every child born to him by a slave-girl who he wills to be set free but he does not make mudabbara, her children are not freed with her when she is freed. That is because her master can change his will when he likes and rescind it when he likes, and being set free is not confirmed for her. She is in the position of a slave-girl whose master says, 'If so-and-so remains with me until I die, she is free.' " (i.e. he does not make a definite contract.)

Malik said, "If she fulfils that, that is hers. If he wishes, before that, he can sell her and her child because he has not entered her child into any condition he has made for her.

"The bequest in setting free is different from the tadbir. The precedent of the sunna makes a distinction between them. Had a bequest been in the position of a tadbir, no testator would be able to change his will and what he mentioned in it of setting free. His property would be tied up and he would not be able to use it."

Malik said about a man who made all his slaves mudabbar while he was well and

they were his only property, "If he made some of them mudabbar before the others, one begins with the first until the third of his property is reached. (i.e. their value is matched against the third, and those whose value is covered are free.) If he makes the mall mudabbar in his illness, and says in one statement, 'So-and-so is free. So-and-so is free. So-and-so is free if my death occurs in this illness,' or he makes them all mudabbar in one statement, they are matched against the third and one does not begin with any of them before the others. It is a bequest and they have a third of his property divided between them in shares. Then the third of his property frees each of them according to the extent of his share.

"No single one of them is given preference when that all occurs in his illness."

Malik spoke about a master who made his slave a mudabbar and then he died and the only property he had was the mudabbar slave and the slave had property. He said, "A third of the mudabbar is freed and his property remains in his possession."

Malik said about a mudabbar whose master gave him a kitaba and then the master died and did not leave any property other than him, "A third of him is freed and a third of his kitaba is reduced, and he owes two-thirds."

Malik spoke about a man who freed half of his slave while he was ill and made irrevocable his freeing half of him or all of him, and he had made another slave of his mudabbar before that. He said, "One begins with the slave he made mudabbar before the one he freed while he was ill. That is because the man cannot revoke what he has made mudabbar and cannot follow it with a matter which will rescind it. When this mudabbar is freed, then what remains of the third goes to the one who had half of him freed so as to complete his setting-free entirely in the third of the property of the deceased. If what is left of the third does not cover that, whatever is covered by what is left of the third is freed after the first mudabbar is freed . "

Section: A Master's Intercourse with His Slave-girl when he has Made her Mudabbara

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Book 40, Number 40.4.4:

Malik related to me from Nafi that Abdullah ibn Umar made two of his slave-girls mudabbara, and he had intercourse with them while they were mudabbara.

Book 40, Number 40.4.5:

Malik related to me from Yahya ibn Said that Said ibn al-Musayyab used to say, "When a man makes his slave-girl mudabbara, he can have intercourse with her. He cannot sell her or give her away and her children are in the same position as her."

Section: Selling Mudabbars

Book 40, Number 40.5.6:

Malik said, "The generally agreed on way of doing things in our community about a

mudabbar is that the owner cannot sell him or change the position in which he has put him. If a debt overtakes the master, his creditors cannot sell the mudabbar as long as the master is alive. If the master dies and has no debts, the mudabbar is included in the third (of the bequest) because he expected his work from him as long as he lived. He cannot serve him all his life, and then he frees him from his heirs out of the main portion of his property when he dies. If the master of the mudabbar dies and has no property other than him, one third of him is freed, and two thirds of him belong to the heirs. If the master of the mudabbar dies and owes a debt which encompasses the mudabbar, he is sold to meet the debt because he can only be freed in the third (which is allowed for bequest) ."

He said, "If the debt only includes half of the slave, half of him is sold for the debt. Then a third of what remains after the debt is freed. "

Malik said, "It is not permitted to sell a mudabbar and it is not permitted for anyone to buy him unless the mudabbar buys himself from his master. He is permitted to do that. Or else some one gives the master of the mudabbar money and his master who made him a mudabbar frees him. That is also permitted for him."

Malik said, "His wala' belongs to his master who made him a mudabbar."

Malik said, "It is not permitted to sell the service of a mudabbar because it is an uncertain transaction since one does not know how long his master will live. That is uncertain and it is not good."

Malik spoke about a slave who was shared between two men, and one of them made his portion mudabbar. He said, "They estimate his value between them. If the one who made him mudabbar buys him, he is all mudabbar. If he does not buy him, his tadbir is revoked unless the one who retains ownership of him wishes to give his partner who made him mudabbar his value. If he gives him to him for his value, that is binding, and he is all mudabbar."

Malik spoke about the christian man who made a christian slave of his mudabbar and then the slave became muslim. He said, "One separates the master and the slave, and the slave is removed from his christian master and is not sold until his situation becomes clear. If the christian dies and has a debt, his debt is paid from the price of the slave unless he has in his estate what will pay the debt. Then the mudabbar is set free."

Section: Injuries Caused by Mudabbars

Book 40, Number 40.6.7:

Malik related to me that he heard that Umar ibn Abd al-Aziz gave a judgement about the mudabbar who did an injury. He said, "The master must surrender what he owns of him to the injured person. He is made to serve the injured person and recompense (in the form of service) is taken from him as the blood-money of the injury. If he completes that before his master dies, he reverts to his master."

Malik said, "The generally agreed on way of doing things in our community about a

mudabbar who does an injury and then his master dies and the master has no property except him is that the third (allowed to be bequeathed) is freed, and then the blood-money for the in jury is divided into thirds. A third of the blood-money is against the third of him which was set free, and two-thirds are against the two-thirds which the heirs have. If they wish, they surrender what they have of him to the party with the injury, and if they wish, they give the injured person two-thirds of the blood-money and keep their portion of the slave. That is because that injury is a criminal action by the slave and it is not a debt against the master by which whatever setting free and tadbir the master had done would be abrogated. If there were a debt to people held against the master of the slave, as well as the criminal action of the slave, part of the mudabbar would be sold in proportion to the blood-money of the injury and according to the debt. Then one would begin with the blood-money which was for the criminal action of the slave and it would be paid from the price of the slave. Then the debt of his master would be paid, and then one would look at what remained after that of the slave. His third would b be set free, and two-thirds of him would belong to the heirs. That is because the criminal action of the slave is more important than the debt of his master. That is because, if the man dies and leaves a mudabbar slave whose value is one hundred and fifty dinars, and the slave strikes a free man on the head with a blow that lays open the skull, and the blood-money is fifty dinars, and the master of the slave has a debt of fifty dinars, one begins with the fifty dinars which are the blood-money of the head wound, and it is paid from the price of the slave. Then the debt of the master is paid. Then one looks at what remains of the slave, and a third of him is set free and two-thirds of him remain for the heirs. The blood-money is more pressing against his person than the debt of his master. The debt of his master is more pressing than the tadbir which is a bequest from the third of the property of the deceased. None of the tadbir is permitted while the master of the mudabbar has a debt which is not paid. It is a bequest. That is because Allah, the Blessed, the Exalted, said, 'After any bequest that is made or any debt.' " (Sura 4 ayat 10)

Malik said, "If there is enough in the third property that the deceased can bequeath to free all the mudabbar, he is freed and the blood-money due from his criminal action is held as a debt against him which follows him after he is set free even if that blood-money is the full blood-money. It is not a debt on the master."

Malik spoke about a mudabbar who injured a man and his master surrendered him to the injured party, and then the master died and had a debt and did not leave any property other than the mudabbar, and the heirs said, "We surrender the mudabbar to the party," whilst the creditor said, "My debt exceeds that." Malik said that if the creditor's debt did exceed that at all , he was more entitled to it and it was taken from the one who owed the debt, according to what the creditor was owed in excess of the blood-money of the injury. If his debt did not exceed it at all, he did not take the slave.

Malik spoke about a mudabbar who did an injury and had property, and his master refused to ransom him. He said, "The injured party takes the property of the mudabbar for the blood-money of his injury. If there is enough to pay it, the injured party is paid in full for the blood-money of his injury and the mudabbar is returned to his master. If there is not enough to pay it, he takes it from the blood-money and uses

the mudabbar for what remains of the blood-money."

Section: Injuries Caused by the Umm Walad

Book 40, Number 40.7.8:

Malik said in the case of an umm walad who injured someone, "The blood-money of that injury is the responsibility of her master from his property, unless the blood-money of the injury is greater than the value of the umm walad. Her master does not have to pay more than her value. That is because when the master of a slave or slave-girl surrenders his slave or slave-girl for an injury which one of them has done, he does not owe any more than that, even if the blood-money is greater. As the master of the umm walad cannot surrender her because of the precedent of the sunna, when he pays her price, it is as if he had surrendered her. He does not have to pay more than that. This is the best of what I have heard about the matter. The master is not obliged to assume responsibility for more than an umm walad's value because of her criminal action."

Translation of Malik's Muwatta, Book 41:

The Mudabbar

Section: Stoning

Book 41, Number 41.1.1:

> Malik related to me from Nafi that Abdullah ibn Umar said, "The Jews came to the Messenger of Allah, may Allah bless him and grant him peace, and mentioned to him that a man and woman from among them had committed adultery. The Messenger of Allah, may Allah bless him and grant him peace, asked them, 'What do you find in the Torah about stoning?' They said, 'We make their wrong action known and flog them.' Abdullah ibn Salam said, 'You have lied! It has stoning for it, so bring the Torah.' They spread it out and one of them placed his hand over the ayat of stoning. Then he read what was before it and what was after it. Abdullah ibn Salam told him to lift his hand. He lifted his hand and there was the ayat of stoning. They said, 'He has spoken the truth, Muhammad. The ayat of stoning is in it.' So the Messenger of Allah, may Allah bless him and grant him peace, gave the order and they were stoned . "
>
> Abdullah ibn Umar added, "I saw the man leaning over the woman to protect her from the stones."
>
> Malik commented, "By leaning he meant throwing himself over her so that the stones fell on him."

Book 41, Number 41.1.2:

> Malik related to me from Yahya ibn Said from Said ibn al-Musayyab that a man from the Aslam tribe came to Abu Bakr as-Siddiq and said to him, "I have committed adultery." Abu Bakr said to him, "Have you mentioned this to anyone else?" He said, "No." Abu Bakr said to him, "Then cover it up with the veil of Allah. Allah accepts tawba from his slaves." His self was still unsettled, so he went to Umar ibn al-Khattab. He told him the same as he had said to Abu Bakr, and Umar told him the same as Abu Bakr had said to him. His self was still not settled so he went to the Messenger of Allah, may Allah bless him and grant him peace, and said to him, "I have committed adultery," insistently. The Messenger of Allah, may Allah bless him and grant him peace, turned away from him three times. Each time the Messenger of Allah, may Allah bless him and grant him peace, turned away from him until it became too much. The Messenger of Allah, may Allah bless him and grant him peace, questioned his family, "Does he have an illness which affects his mind, or is he mad?" They said, "Messenger of Allah, by Allah, he is well." The Messenger of Allah, may Allah bless him and grant him peace, said, "Unmarried or married?" They said, "Married, Messenger of Allah." The Messenger of Allah, may Allah bless him

and grant him peace, gave the order and he was stoned.

Book 41, Number 41.1.3:

Malik related to me from Yahya ibn Said that Said ibn al-Musayyab said, "I have heard that the Messenger of Allah, may Allah bless him and grant him peace, said to a man from the Aslam tribe called Hazzal, 'Hazzal, had you veiled him with your cloak, it would have been better for you.' "

Yahya ibn Said said, "I related this hadith in an assembly among whom was Yazid ibn Nuaym ibn Hazzal al-Aslami. Yazid said, 'Hazzal was my grandfather. This hadith is true.' "

Book 41, Number 41.1.4:

Malik related to me that Ibn Shihab informed him that a man confessed that he had committed adultery in the time of the Messenger of Allah, may Allah bless him and grant him peace, and he testified against himself four times, so the Messenger of Allah, may Allah bless him and grant him peace, gave the order and he was stoned.

Ibn Shihab said, "Because of this a man is to be taken for his own confession against himself."

Book 41, Number 41.1.5:

Malik related to me from Yaqub ibn Zayd ibn Talha from his father Zayd ibn Talha that Abdullah ibn Abi Mulayka informed him that a woman came to the Messenger of Allah, may Allah bless him and grant him peace, and informed him that she had committed adultery and was pregnant. The Messenger of Allah, may Allah bless him and grant him peace, said to her, "Go away until you give birth." When she had given birth, she came to him. The Messenger of Allah, may Allah bless him and grant him peace, said to her, "Go away until you have suckled and weaned the baby." When she had weaned the baby, she came to him. He said, "Go and entrust the baby to someone." She entrusted the baby to someone and then came to him. He gave the order and she was stoned.

Book 41, Number 41.1.6:

Malik related to me from Ibn Shihab from Ubaydullah ibn Abdullah ibn Utba ibn Masud that Abu Hurayra and Zayd ibn Khalid al-Juhani informed him that two men brought a dispute to the Messenger of Allah, may Allah bless him and grant him peace. One of them said, "Messenger of Allah! Judge between us by the Book of Allah!" The other said, and he was the wiser of the two, "Yes, Messenger of Allah. Judge between us by the Book of Allah and give me permission to speak." He said, "Speak." He said, "My son was hired by this person and he committed fornication with his wife. He told me that my son deserved stoning, and I ransomed him for one hundred sheep and a slave-girl. Then I asked the people of knowledge and they told me that my son deserved to be flogged with one hundred lashes and exiled for a year, and they informed me that the woman deserved to be stoned." The Messenger of

Allah, may Allah bless him and grant him peace, said, "By him in whose Hand myself is, I will judge between you by the Book of Allah. As for your sheep and slave girl, they should be returned to you. Your son should have one hundred lashes and be exiled for a year." He ordered Unays al-Aslami to go to the wife of the other man and to stone her if she confessed . She confessed and he stoned her.

Book 41, Number 41.1.7:

Malik related to me from Suhayl ibn Abi Salih from his father from Abu Hurayra that Sad ibn Ubada said to the Messenger of Allah, may Allah bless him and grant him peace, "What do you think I should do if I were to find a man with my wife? Should I leave him there until I had brought four witnesses?" The Messenger of Allah, may Allah bless him and grant him peace, said, "Yes."

Book 41, Number 41.1.8:

Malik related to me from Ibn Shihab from Ubaydullah ibn Abdullah ibn Utba ibn Masud that Abdullah ibn Abbas said, "I heard Umar ibn al-Khattab say, 'Stoning is in the Book of Allah for those who commit adultery, men or women when they are muhsan and when there is clear proof of pregnancy or a confession.' "

Book 41, Number 41.1.9:

Malik related to me from Yahya ibn Said from Sulayman ibn Yasar from Abu Waqid al-Laythi that a man came to Umar ibn al-Khattab while he was in ash-Sham . He mentioned to him that he had found a man with his wife Umar sent Abu Waqid al-Laythi to the wife to question her about that. He came to her while there were women around her and mentioned to her what her husband had mentioned to Umar ibn al-Khattab, and informed her that she would not be punished on his word and began to suggest to her by that, that she should retract. She refused to retract and held firm to confession. Umar gave the order and she was stoned.

Book 41, Number 41.1.10:

Malik related to me that Yahya ibn Said heard Said ibn al-Musayyab say, "When Umar ibn al-Khattab came from Mina, he made his camel kneel at al-Abtah, and then he gathered a pile of small stones and cast his cloak over them and dropped to the ground. Then he raised his hands to the sky and said, 'O Allah! I have become old and my strength has weakened. My flock is scattered. Take me to You with nothing missed out and without having neglected anything.' Then he went to Madina and addressed the people. He said, 'People! Sunan have been laid down for you. Obligations have been placed upon you. You have been left with a clear way unless you lead people astray right and left.' He struck one of his hands on the other and then said, 'Take care lest you destroy the ayat of stoning so that one will say, "We do not find two hadds in the Book of Allah." The Messenger of Allah, may Allah bless him and grant him peace, stoned, so we have stoned. By He in Whose Hand my self is, had it not been that people would say that Umar ibn al-Khattab has added to the Book of Allah ta-ala, we would have written it, "The full-grown man and the

full-grown woman, stone them absolutely." We have certainly recited that.'"

Malik said, "Yahya ibn Said said Said ibn al-Musayyab said, 'Dhu'l-Hijja had not passed before Umar was murdered, may Allah have mercy on him.' "

Yahya said that he had heard Malik say, "As for his words 'The full-grown man and the full-grown woman' he meant, 'The man and the woman who have been married, stone them absolutely.' "

Book 41, Number 41.1.11:

Malik related to me that he had heard that Uthman ibn Affan was brought a woman who had given birth after six months and he ordered her to be stoned. Ali ibn Abi Talib said to him, "She does not deserve that. Allah, the Blessed, the Exalted, says in His Book, 'Their carrying and weaning is thirty months,' (Sura 46 ayat 15) and he said, 'Mothers suckle their children for two full years for whoever wishes to complete the suckling.' (Sura 2 ayat 233) Pregnancy can then be six months, so she does not deserve to be stoned." Uthman ibn Affan sent for her and found that she had already been stoned.

Malik related to me that he asked Ibn Shihab about someone who committed sodomy. Ibn Shihab said, "He is to be stoned, whether or not he is muhsan."

Section: Self-Confession of Fornication

Book 41, Number 41.2.12:

Malik related to me from Zayd ibn Aslam that a man confessed to fornication in the time of the Messenger of Allah, may Allah bless him and grant him peace. The Messenger of Allah, may Allah bless him and grant him peace, called for a whip, and he was brought a broken whip. He said, "Above this," and he was brought a new whip whose knots had not been cut yet. He said, "Below this," and he was brought a whip which had been used and made flexible. The Messenger of Allah, may Allah bless him and grant him peace, gave the order and he was flogged. Then he said, "People! The time has come for you to observe the limits of Allah. Whoever has had any of these ugly things befall him should cover them up with the veil of Allah. Whoever reveals to us his wrong action, we perform what is in the Book of Allah against him."

Book 41, Number 41.2.13:

Malik related to me from Nafi that Safiyya bint Abi Ubayd informed him that a man who had had intercourse with a virgin slave-girl and made her pregnant was brought to Abu Bakr as-Siddiq. He confessed to fornication, and he was not muhsan. Abu Bakr gave the order and he was flogged with the hadd punishment. Then he was banished to Fadak, (thirty miles from Madina).

Malik spoke about a person who confessed to fornication and then retracted it and said, "I didn't do it. I said that for such-and-such a reason," and he mentioned the

reason. Malik said, "That is accepted from him and the hadd is not imposed on him. That is because the hadd is what is for Allah, and it is only applied by one of two means, either by a clear proof which establishes guilt or by a confession which is persisted in so that the hadd is imposed. If someone persists in his confession, the hadd is imposed on him."

Malik said, "I have not seen the people of knowledge exiling slaves who have committed adultery."

Section: The Hadd for Fornication

Book 41, Number 41.3.14:

Malik related to me from Ibn Shihab from Ubaydullah ibn Abdullah ibn Utba ibn Masud from Abu Hurayra and Zayd ibn Khalid al-Juhani that the Messenger of Allah, may Allah bless him and grant him peace, was asked about a slave-girl who committed fornication and was not muhsana. He said, "If she commits fornication, then flog her. If she commits fornication again, then flog her, and if she commits fornication again, then sell her, if only for a rope."

Ibn Shihab added, "I don't know whether it was three or four times."

Book 41, Number 41.3.15:

Malik related to me from Nafi that a slave was in charge of the slaves in the khumus and he forced a slave-girl among those slaves against her will and had intercourse with her. Umar ibn al-Khattab had him flogged and banished him, and he did not flog the slave-girl because the slave had forced her.

Book 41, Number 41.3.16:

Malik related to me from Yahya ibn Said that Sulayman ibn Yasar informed him that Abdullah ibn Abbas ibn Abi Rabia al-Makhzumi said, "Umar ibn al-Khattab gave me orders about the slaves of Quraysh and we flogged some of the slave-girls of the muslim lands fifty times each for fornication."

Section: Rape

Book 41, Number 41.4.16a:

Malik said, "The position with us about a woman who is found to be pregnant and has no husband and she says, 'I was forced,' or she says, 'I was married,' is that it is not accepted from her and the hadd is inflicted on her unless she has a clear proof of what she claims about the marriage or that she was forced or she comes bleeding if she was a virgin or she calls out for help so that someone comes to her and she is in that state or what resembles it of the situation in which the violation occurred." He said, "If she does not produce any of those, the hadd is inflicted on her and what she claims of that is not accepted from her."

Malik said, "A raped woman cannot marry until she has restored herself by three menstrual periods."

He said, "If she doubts her periods, she does not marry until she has freed herself of that doubt."

Section: The Hadd for Slander, Denial and Insinuation

Book 41, Number 41.5.17:

Malik related to me from Abu'z-Zinad that he said, "Umar ibn Abd al-Aziz flogged a slave with eighty lashes for slander."

Abu'z-Zinad said, "I asked Abdullah ibn Amir ibn Rabia about that. He said, 'I saw Umar ibn al-Khattab, Uthman ibn Affan, the Khalifs, and so on, and I did not see any of them flog a slave more than forty lashes for slander.' "

Book 41, Number 41.5.18:

Malik related to me from Zurayq ibn Hakim al-Ayli that a man called Misbah asked his son for help and he thought him unnecessarily slow. When the son came, his father said to him, "O fornicator." Zurayq said, "So the son asked me to help him against the father. When I wanted to flog him, his son said, 'By Allah, if you flog him, I will acknowledge that I have committed fornication.' When he said that, the situation was confused for me, so I wrote about it to Umar ibn Abd al-Aziz who was the governor at that time, and I mentioned it to him. Umar wrote me to permit his pardon."

Zurayq said, "I wrote to Umar ibn Abd al-Aziz also, 'What do you think about a man who is slandered or his parents are slandered and both or only one of them are dead?' He said, Umar wrote to me, 'If he forgives, his pardon is permitted for himself. If his parents are slandered and one or both of them are dead, take the judgement of the Book of Allah for it unless he wants to veil it.' "

Yahya said, "I heard Malik say, 'That is because the slandered man might fear that if that is unveiled about him, a clear proof might be established. If it is according to what we have described, his pardon is permitted."

Book 41, Number 41.5.19:

Malik related to me from Hisham ibn Urwa that his father said that there was only one hadd against a man who slandered a group of people.

Malik said, "If they are on separate occasions there is still only one hadd against him."

Malik related to me from Abu'r-Rijal Muhammad ibn Abd ar-Rahman ibn Haritha ibn an-Numan al-Ansari, then from the Banu'n-Najar from his mother Amra bint Abd ar-Rahman that two men cursed each other in the time of Umar ibn al-Khattab. One of them said to the other, " By Allah, my father is not an adulterer and my mother is

not an adulteress." Umar ibn al-Khattab asked advice about that. One person said, "He has praised his father and mother." Another said, "His father and mother have praise other than this. We think that he is to be flogged with the hadd." So Umar flogged him with the hadd of eighty lashes.

Malik said, "There is no hadd in our view except for slander, denial or insinuation, in which one sees that the speaker intends by that denial or slander. Then the hadd is completely imposed on the one who said it."

Malik said, "What is done in our community when a man denies that another man is from his father, is that he deserves the hadd. If the mother who is denied is a slave, then he deserves the hadd as well. '

Section: What has No Hadd for It

Book 41, Number 41.6.19a:

Malik said, "The best of what is heard about a slave-girl whom a man has intercourse with while he has a partner in her is that the hadd is not inflicted on him and the child is connected to him. When the slave-girl becomes pregnant, her value is estimated and he gives his partners their shares of the price and the slave-girl is his. That is what is done among us."

Malik said about a man who made his slave-girl halal to a man that if the one for whom she was made halal had intercourse with her, her value was estimated on the day he had intercourse with her and he owed that to her owner whether or not she conceived. The hadd was averted from him by that. If she conceived the child was connected to him.

Malik said about a man who had intercourse with his son's or daughter's slave-girl, "The hadd is averted from him and he owes the estimated value of the slave-girl whether or not she conceives."

Book 41, Number 41.6.20:

Malik related to me from Rabia ibn Abi Abd ar-Rahman that Umar ibn al-Khattab spoke about a man who went out with his wife's slave-girl on a journey and had intercourse with her and then the wife became jealous and mentioned that to Umar ibn al-Khattab. Umar questioned him about it. He said, "She gave her to me." Umar said, "Bring me a clear proof or I will stone you." Rabia added, "The wife confessed that she had given her to him."

Section: What Obliges Cutting Off the Hand

Book 41, Number 41.7.21:

Malik related to me from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, cut off the hand of a man who stole a shield whose price was three dirhams.

Book 41, Number 41.7.22:

Yahya related to me from Malik from Abdullah ibn Abd ar-Rahman abu Husayn al-Makki that the Messenger of Allah, may Allah bless him and grant him peace, said, "The hand is not cut off for fruit hanging on the tree and for sheep kept in the mountains. So when they are taken from the fold or the place where the fruit is dried, a hand is cut off for whatever reaches the price of a shield."

Book 41, Number 41.7.23:

Yahya related to me from Malik from Abdullah ibn Abi Bakr from his father from Amra bint Abd ar-Rahman that a thief stole a citron in the time of Uthman Uthman ibn Affan ordered its value to be estimated and it was estimated at three dirhams at the rate of exchange of twelve dirhams for the dinar, so Uthman cut off his hand.

Book 41, Number 41.7.24:

Yahya related to me from Malik from Yahya ibn Said from Amra bint Abd ar-Rahman that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "It has not been a long time for me and I have not forgotten. A thief's hand is cut off for a quarter of a dinar and upwards."

Book 41, Number 41.7.25:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Hazim that Amra bint Abd ar-Rahman said, "A'isha, the wife of the Prophet, may Allah bless him and grant him peace, went out to Makka and she had two girl mawlas of hers and a slave belonging to the sons of Abdullah ibn Abi Bakr as-Siddiq . She sent a figured cloak with the two mawlas which was sewn up in a piece of green cloth."

Amra continued, "The slave took it and unstitched it and took out the cloak. In its place, he put some felt or skin and sewed it up again. When the mawla girls came to Madina, they gave it to his people. When they opened it, they found felt in it and did not find the cloak. They spoke to the two women and they spoke to A'isha, the wife of the Prophet, may Allah bless him and grant him peace, or they wrote to her and suspected the slave. The slave was asked about it and confessed. A'isha, the wife of the Prophet, may Allah bless him and grant him peace, gave the order and his hand was cut off. A'isha said, 'A thief's hand is cut off for a quarter of a dinar and upwards.' "

Malik said, "The limit I prefer above which cutting off the hand is obliged is three dirhams, whether the exchange is high or low. That is because the Messenger of Allah, may Allah bless him and grant him peace, cut off the hand of a thief for a shield whose value was three dirhams, and Uthman ibn Affan cut off the hand of a thief for a citron which was estimated at three dirhams. This is what I prefer of what I have heard on the matter."

Section: Cutting Off the Hands of Runaway Slaves Who Steal

Book 41, Number 41.8.26:

Yahya related to me from Malik from Nafi that a slave of Abdullah ibn Umar stole while he was a runaway. Abdullah ibn Umar sent him to Said ibn al-As, who was the amir of Madina, to cut off his hand. Said refused to cut off his hand. He said, "The hand of a runaway slave is not cut off when he steals." Abdullah ibn Umar said to him, "In what Book of Allah did you find this?" Then Abdullah ibn Umar gave the order, and his hand was cut off.

Book 41, Number 41.8.27:

Yahya related to me from Malik that Zurayq ibn Hakim informed him that he had a runaway slave who had stolen. He said, "The situation was obscure for me, so I wrote to Umar ibn Abd al-Aziz to ask him about it. He was the governor at that time. I informed him that I had heard that if a runaway slave stole while he was a fugitive, his hand was not cut off. 'Umar ibn Abd al-Aziz wrote to contradict my letter, 'You wrote to me that you have heard that when the runaway slave steals, his hand is not cut off. Allah, the Blessed, the Exalted, says in His Book, 'The thief, male and female, cut off the hands of both, as a recompense for what they have earned, and an exemplary punishment from Allah. Allah is Mighty, Wise.' (Sura 5 ayat 41) When his theft reaches a quarter of a dinar, and upwards, his hand is cut off.' "

Yahya related to me from Malik that he had heard that al-Qasim ibn Muhammad and Salim ibn Abdullah and Urwa ibn az-Zubayr said, "When a runaway slave steals something for which cutting off the hand is obliged, his hand is cut off."

Malik said, "The way of doing things amongst us about which there is no dispute is that when the runaway slave steals that for which cutting off the hand is obliged, his hand is cut off."

Section: Intercession Cut Off for Thieves when Cases Reach the Sultan

Book 41, Number 41.9.28:

Yahya related to me from Malik from Ibn Shihab from Safwan ibn Abdullah ibn Safwan that it was said to Safwan ibn Umayya, "Whoever does not do hijra is ruined." So Safwan ibn Umayya went to Madina and slept in the mosque with his cloak as a pillow. A thief came and took his cloak and Safwan grabbed hold of the thief and brought him to the Messenger of Allah, may Allah bless him and grant him peace. The Messenger of Allah, may Allah bless him and grant him peace, said to him, "Did you steal this cloak?" He said, "Yes." So the Messenger of Allah, may Allah bless him and grant him peace, ordered that his hand be cut off. Safwan said to him, "I did not intend this. It is his as sadaqa." The Messenger of Allah, may Allah bless him and grant him peace, said, "Why didn't you do it before bringing him to me?"

Book 41, Number 41.9.29:

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman that az-Zubayr ibn al-Awwam came across a man who had taken hold of a thief and was intending to take him to the Sultan. Az-Zubayr ibn al-Awwam interceded for him to let him go. He said, "No. Not until I take him to the Sultan." Az-Zubayr said, "When you reach the Sultan with him, Allah curses the one who intercedes and the one who accepts the intercession."

Section: General Section on Cutting Off the Hand

Book 41, Number 41.10.30:

Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim from his father that a man from Yemen who had his hand and foot cut off came and went before Abu Bakr as-Siddiq and complained to him that the governor of the Yemen had wronged him, and the man used to pray part of the night. Abu Bakr said, "By your father, your night is not the night of a thief." Then they missed a necklace of Asma bint Umays, the wife of Abu Bakr as-Siddiq. The man came to go around with them looking for it. He said, "O Allah! You are responsible for the one who invaded the people of this good house by night!" They found the jewelry with a goldsmith. He claimed that the maimed man had brought it to him. The maimed man confessed or it was testified against him. Abu Bakr as-Siddiq ordered that his left hand be cut off. Abu Bakr said, "By Allah! His dua against himself is more serious, as far as I am concerned, than his theft."

Yahya said that Malik said, "What is done among us about the person who steals several times and is then called to reckoning, is that only his hand is cut off for all he stole when the hadd has not been applied againsthim. If the hadd has been applied against him before that, and he steals what obliges cutting off, then the next limb is cut off."

Book 41, Number 41.10.31:

Yahya related to me from Malik that Abu'z-Zinad informed him that a governor of Umar ibn Abd al-Aziz took some people in battle and had not killed any of them. He wanted to cut off their hands or kill them, so he wrote to Umar ibn Abd al-Aziz about that Umar ibn Abd al-Aziz wrote to him, "Better to take less than that."

Yahya said that he heard Malik say, "What is done among us about a person who steals the goods of people which are placed under guard in the markets, and their owners put them in their containers and store them together is that if anyone steals any of that from where it is kept, and its value reaches that for which cutting off the hand is obliged, his hand must be cut off, whether or not the owner of the goods is with his goods and whether it is night or day."

Malik said about some one who stole something for which cutting off the hand was obliged and then what he stole was found with him and he returned it to its owner, "His hand is cut off."

Malik said, "If someon says, 'How can his hand be cut off when the goods have been

taken from him and returned to their owner?', it is because he is in the same position as the wine drinker when the smell of the wine is found on his breath and he is not drunk. He is flogged with the hadd.

"The hadd is imposed for drinking wine even if it does not make the man intoxicated. That is because he drank it to become intoxicated. It is the same as that with cutting off the hand of the thief for theft when it is taken from him, even if he has not profited from it and it was returned to its owner. When he stole it, he stole it to take it away."

Malik said that if some people came to a house and robbed it together, and then they left with a sack or box or a board or basket or the like of that which they carried together, and when they took it out of its guarded place, they carried it together, and the price of what they took reached that for which cutting off the hand was obliged, and that was three dirhams and upwards, each of them had his hand cut off.

"If each of them takes out something by himself, whoever of them takes out something whose value reaches three dirhams and upwards must have his hand cut off. If any of them takes out something whose value does not reach three dirhams, he does not have his hand cut off."

Yahya said that Malik said, "What is done among us is that when a man's house is locked and he is the only one living in it, cutting off the hand is not obliged against the one who steals something from it until he takes it out of the house completely. That is because all of the house is a place of custody. If someone other than him lives in the house and each of them locks his door, and it is a place of custody for each of them, whoever steals anything from the apartments of that house must have his hand cut off when he leaves the apartment and goes into the main house. He has removed it from its place of custody to another place and he must have his hand cut off."

Malik said, "What is done in our community about a slave who steals from the property of his master is that if he is not in service and among those trusted in the house and he enters secretly and steals from his master something that for which cutting off the hand is obliged, his hand is not cut off. It is like that with a slave-girl when she steals from her master's property. Her hand is not cut off."

Malik then spoke about a slave who was not in service and not one of those trusted in the house, and he entered secretly and stole from the property of his master's wife that for which cutting off the hand was obliged. He said, "His hand is cut off."

"It is like that with the wife's slave-girl when she does not serve her or her husband nor is she trusted in the house and she enters secretly and steals from her mistress's property that for which cutting off the hand is obliged. Her hand is not cut off."

"It is like that with the wife's slave-girl who is not in her service and is not trusted in the house and she enters secretly and steals from the property of her mistress's husband something for which cutting off the hand is obliged. Her hand is cut off."

It is like that with the man who steals from his wife's goods or the wife who steals from her husband's goods something for which cutting off the hand is obliged. If the

thing which one of them steals from his spouse's property is in a room other than the room which they both lock for themselves, or it is in a place of custody in a room other than the room which they are in, whichever of them steals something for which cutting off the hand is obliged, their hand should be cut off."

Malik spoke about a small child and a foreigner who does not speak clearly. He said, "If they are robbed of something from its place of custody or from under a lock, the one who stole it has his hand cut off. If the property is outside of its place of custody or locked room(when it is stolen), the one who robbed them does not have his hand cut off. It is then in the position of sheep stolen from the mountain and uncut fruit hanging on the trees "

Malik said, "What is done among us about a person who robs graves is that if what he takes from the grave reaches what cutting off the hand is obliged for, his hand is cut off . That is because the grave is a place of custody for what is in it just as houses are a place of custody for what is in them. "

Malik added, "Cutting off the hand is not obliged for him until he takes it out of the grave."

Section: Things for Which the Hand is Not Cut Off

Book 41, Number 41.11.32:

Yahya related to me from Malik from Yahya ibn Said from Muhammad ibn Yahya ibn Habban that a slave stole a small palm from a man's garden and planted it in the garden of his master. The owner of the palm went out looking for the palm and found it. He asked for help against the slave from Marwan ibn al-Hakam. Marwan jailed the slave and wanted to cut off his hand. The master of the slave rushed off to Rafi ibn Khadij and asked him about it. Rafi informed him that he heard the Messenger of Allah, may Allah bless him and grant him peace, say, "The hand is not cut off for fruit or palm pith." The man said, "Marwan ibn al-Hakam has taken a slave of mine and wants to cut off his hand. I would like you to go with me to him so you can tell him what you heard from the Messenger of Allah, may Allah bless him and grant him peace." So, Rafi went with him to Marwan ibn al-Hakam. He said, "Did you arrest a slave for this?" He said, "Yes." He said, "What will you do with him?" He said, "I want to cut off his hand." Rafi said to him, "I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'The hand is not cut off for dates or palm pith.' Marwan therefore ordered the slave to be released."

Book 41, Number 41.11.33:

Yahya related to me from Malik from Ibn Shihab from as-Sa'ib ibn Yazid that Abdullah ibn Amr ibn al-Hadrami brought a slave of his to Umar ibn al-Khattab and said to him, "Cut off the hand of this slave of mine. He has stolen." Umar said to him, "What did he steal?" He said, "He stole a mirror belonging to my wife. Its value was sixty dirhams." Umar said, "Let him go. His hand is not to be cut off. He is your servant who has stolen your belongings."

Book 41, Number 41.11.34:

Yahya related to me from Malik from Ibn Shihab that Marwan ibn al-Hakam was brought a man who had snatched some goods and he wanted to cut off his hand. He sent to Zayd ibn Thabit to ask him about it. Zayd ibn Thabit said to him, "The hand is not cut off for what is stolen by chance, openly, in haste."

Book 41, Number 41.11.35:

Yahya related to me from Malik that Yahya ibn Said said that Abu Bakr ibn Muhammad ibn Amr ibn Hazm informed him that he had taken a Nabatean who had stolen some iron rings and jailed him in order to cut off his hand. Amra bint Abd ar-Rahman sent a girl mawla to him called Umayya. Abu Bakr said that she had come to him while he was among the people and said that his aunt Amra sent word to him saying, "Son of my brother! You have taken a Nabatean for something insignificant which was mentioned to me. Do you want to cut off his hand?" He had said, "Yes." She said, "Amra says to you not to cut off the hand except for a quarter of a dinar and upwards."

Abu Bakr added, "So I let the Nabatean go."

Malik said, "The generally agreed on way of doing things among us about the confession of slaves is that if a slave confesses something against himself, the hadd and punishment for it is inflicted on his body. His confession is accepted from him and one does not suspect that he would inflict something on himself."

Malik said, "As for the one of them who confesses to a matter which will incur damages agains this master, his confession is not accepted against his master."

Malik said, "One does not cut off the hand of a hireling or a man who is with some people to serve them, if he robs them, because his state is not the state of a thief. His state is the state of a treacherous one. The treacherous one does not have his hand cut off."

Malik said about a person who borrows something and then denies it, "His hand is not cut off. He is like a man who owes a debt to another man and denies it. He does not have his hand cut off for what he has denied."

Malik said, "The generally agreed-on way of dealing among us, with the thief who is found in a house and has gathered up goods and has not taken them out, is that his hand is not cut off. That is like the man who places wine before him to drink it and does not do it. The hadd is not imposed on him. That is like a man who sits with a woman and desires to have haram intercourse with her and does not do it and he does not reach her. There is no hadd against that either."

Malik said, "The generally agreed-on way of doing things among us is that there is no cutting off the hand for what is taken by chance, openly and in haste, whether or not its price reaches that for which the hand is cut off."

Translation of Malik's Muwatta, Book 42:

Drinks

Section: The Hadd for Drinking Wine

Book 42, Number 42.1.1:

Yahya related to me from Malik from Ibn Shihab that as-Sa'ib ibn Yazid informed him that Umar ibn al-Khattab came out to them. He said, "I have found the smell of wine on so-and-so, and he claimed that it was the drink of boiled fruit juice, and I am inquiring about what he has drunk. If it intoxicates, I will flog him." Umar then flogged him with the complete hadd.

Book 42, Number 42.1.2:

Yahya related to me from Malik from Thawr ibn Zayd ad-Dili that Umar ibn al-Khattab asked advice about a man drinking wine. Ali ibn Abi Talib said to him, "We think that you flog him for it with eighty lashes. Because when he drinks, he becomes intoxicated, and when he becomes intoxicated, he talks confusedly, and when he talks confusedly, he lies." (80 lashes is the same amount as for slandering) Umar gave eighty lashes for drinking wine.

Book 42, Number 42.1.3:

Yahya related to me from Malik from Ibn Shihab that he was asked about the hadd of the slave for wine. He said, "I heard that he has half the hadd of a freeman for drinking wine. Umar ibn al-Khattab, Uthman ibn Affan, and Abdullah ibn Umar flogged their slaves with half of the hadd of a freeman when they drank wine."

Book 42, Number 42.1.4:

Yahya related to me from Malik from Yahya ibn Said that he heard Said ibn al-Musayyab say, "There is nothing that Allah does not like to be pardoned as long as it is not a hadd."

Yahya said that Malik said, "The sunna with us is that the hadd is obliged against anyone who drinks something intoxicating whether or not he becomes drunk."

Section: Containers Forbidden for Preparation of Nabidh

Book 42, Number 42.2.5:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, addressed the people

in one of his raids. Abdullah ibn Umar said, "I went towards him, but he finished before I reached him. I asked about what he had said. Someone said to me, 'He forbade preparing nabidh in a gourd or in a jug smeared with pitch.'"

Book 42, Number 42.2.6:

Yahya related to me from Malik from al-Ala ibn Abd ar-Rahman ibn Yaqub from his father from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, forbade preparing nabidh in a gourd or in a jug smeared with pitch.

Section: Mixtures of Fruit Disapproved for Making Nabidh

Book 42, Number 42.3.7:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, forbade preparing nabidh from nearly ripe dates and fresh dates together, and from dates and raisins together.

Book 42, Number 42.3.8:

Yahya related to me from Malik from a reliable source from Bukayr ibn Abdullah ibn al-Ashajj from Abd ar-Rahman ibn al-Hubab al-Ansari from Abu Qatada al-Ansari that the Messenger of Allah, may Allah bless him and grant him peace, forbade making nabidh from dates and raisins together, and nearly ripe dates and fresh dates together.

Malik said, "That is the way of doing things among us in which the people of knowledge in our city continue. It is disapproved of because the Messenger of Allah, may Allah bless him and grant him peace, forbade it."

Section: Wine Made Haram

Book 42, Number 42.4.9:

Yahya related to me from Malik from ibn Shihab from Abu Salama ibn Abd ar-Rahman that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "The Messenger of Allah, may Allah bless him and grant him peace, was asked about mead, and he replied, 'Every drink which intoxicates is haram.' "

Book 42, Number 42.4.10:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, was asked about al-Ghubayra. He said, "There is no good in it," and forbade it. Malik said, "I asked Zayd ibn Aslam, 'What is al-Ghubayra?' He said, 'It is an intoxicant.' "

Book 42, Number 42.4.11:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said "Whoever drinks wine in this world and does not turn from it in tawba, it is haram for him in the Next World."

Section: General Section on Wine being Made Haram

Book 42, Number 42.5.12:

Yahya related to me from Malik from Zayd ibn Aslam that Ibn Wala al-Misri asked Abdullah ibn Abbas about what is squeezed from the grapes. Ibn Abbas replied, "A man gave the Messenger of Allah, may Allah bless him and grant him peace, a small water-skin of wine. The Messenger of Allah, may Allah bless him and grant him peace, said to him, 'Don't you know that Allah has made it haram?' He said, 'No.' Then a man at his side whispered to him. The Messenger of Allah, may Allah bless him and grant him peace, asked what he had whispered, and the man replied, 'I told him to sell it.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'The One who made drinking it haram has made selling it haram.' The man then opened the water-skins and poured out what was in them ."

Book 42, Number 42.5.13:

Yahya related to me from Malik from Ishaq ibn Abdullah ibn Abi Talha that Anas ibn Malik said, "I was serving wine to Abu Ubayda ibn al-Jarrah and Abu Talha al-Ansari and Umayy ibn Kab. The wine had been prepared from crushed ripe dates and dried dates. Someone came to them and said, 'Wine has been made haram.' Abu Talha ordered me to go and take the jugs and break them. I stood up and went to a mortar of ours and I struck them with the bottom of it until they broke."

Book 42, Number 42.5.14:

Yahya related to me from Malik from Da'ud ibn al-Husayn that Waqid ibn Amr ibn Sad ibn Muadh informed him from Mahmud ibn Labid al-Ansari that when Umar ibn al-Khattab went to ash-Sham, the people of ash-Sham complained to him about the bad air of their land and its heaviness. They said, "Only this drink helps." Umar said, "Drink this honey preparation." They said, "Honey does not help us." A man from the people of that land said, "Can we give you something of this drink which does not intoxicate?" He said, "Yes." They cooked it until two-thirds of it evaporated and one-third of it remained. Then they brought it to Umar. Umar put his finger in it and then lifted his head and extended it. He said, "This is fruit juice concentrated by boiling. This is like the distillation with which you smear the camel's scabs." Umar ordered them to drink it. Ubada ibn as-Samit said to him, "You have made it halal, by Allah!" Umar said, "No, by Allah! O Allah! I will not make anything halal for them which You have made haram for them! I will not make anything haram for them which You have made halal for them."

Book 42, Number 42.5.15:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that some men from Iraq said to him, "Abu Abd ar-Rahman, we buy the fruit of the palm and grapes and we squeeze them into wine and we sell it." Abdullah ibn Umar said, "I call on Allah and His angels and whoever hears of jinn and men to testify to you that I order you not to buy it nor sell it nor to press it nor to drink it nor to give it to people to drink. It is something impure from the work of Shaytan."

Translation of Malik's Muwatta, Book 43:

Blood-Money

Section: Mention of Blood-Money

Book 43, Number 43.1.1:

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn Muhammad ibn Amr ibn Hazm from his father that in a letter which the Messenger of Allah, may Allah bless him and grant him peace, sent to Amr ibn Hazm about blood-money he wrote that it was one hundred camels for a life, one hundred camels for a nose if completely removed, a third of the blood-money for a wound in the brain, the same as that for a belly wound, fifty for an eye, fifty for a hand, fifty for a foot, ten camels for each finger, and five for teeth, and five for a head wound which laid bare the bone.

Section: Procedure in Blood-Money

Book 43, Number 43.2.2:

Malik related to me that he had heard that Umar ibn al-Khattab estimated the full blood-money for the people of urban areas. For those who had gold, he made it one thousand dinars. and for those who had silver he made it ten thousand dirhams.

Malik said, "The people of gold are the people of ash-Sham and the people of Egypt. The people of silver are the people of Iraq "

Yahya related to me from Malik that he heard that the blood-money was divided into instalments over three or four years.

Malik said, "Three is the most preferable to me of what I have heard on that."

Malik said, "The generally agreed on way of doing things in our community is that camels are not accepted from the people of cities for blood-money nor is gold or silver accepted from the desert people. Silver is not accepted from the people of gold and gold is not accepted from the people of silver."

Section: The Blood-Money for Murder, When Accepted and the Criminal Act of the Insane

Book 43, Number 43.3.2a:

Yahya related to me from Malik that Ibn Shihab said, "The full blood-money for murder when it is accepted is twenty-five yearlings, twenty-five two-year-olds,

twenty-five four-year-olds, and twenty-five five-year-olds."

Book 43, Number 43.3.3:

Yahya related to me from Malik from Yahya ibn Said that Marwan ibn al-Hakam wrote to Muawiya ibn Abi Sufyan that a madman was brought to him who had killed a man. Muawiya wrote to him, "Tie him up and do not inflict any retaliation on him. There is no retaliation against a madman."

Malik said about an adult and a child when they murder a man together, "The adult is killed and the child pays half the full blood-money."

Malik said, "It is like that with a freeman and a slave when they murder a slave. The slave is killed and the freeman pays half of his value."

Section: The Blood-Money for Manslaughter

Book 43, Number 43.4.4:

Yahya related to me from Malik from Ibn Shihab from Irak ibn Malik and Sulayman ibn Yasar that a man of the Banu Sad ibn Layth was running a horse and it trod on the finger of a man from the Juhayna tribe. It bled profusely, and he died. Umar ibn al-Khattab said to those against whom the claim was made. "Do you swear by Allah with fifty oaths that he did not die of it?" They refused and stopped themselves from doing it. He said to the others, "Will you take an oath?" They refused, so Umar ibn al-Khattab gave a judgement that the Banu Sad had to pay half the full blood-money.

Malik said, "One does not act on this."

Yahya related to me from Malik that Ibn Shihab, Sulayman ibn Yasar, and Rabia ibn Abi Abd ar-Rahman said, "The blood-money of manslaughter is twenty yearlings, twenty two-year-olds, twenty male two-year-olds, twenty four-year-olds, and twenty five-year-olds."

Malik said, "The generally agreed on way with us is that there is no retaliation against children. Their intention is accidental. The hudud are not obliged for them if they have not yet reached puberty. If a child kills someone it is only accidentally. Had a child and an adult killed a free man accidentally, each of them pays half the full blood-money."

Malik said, "A person who kills someone accidentally pays blood-money with his property and there is no retaliation against him. That money is like anything else from the dead man's property and his debt is paid with it and he is allowed to make a bequest from it. If he has a total property of which the blood-money is a third and then the blood-money is relinquished, that is permitted to him. If all the property he has is his blood-money, he is permitted to relinquish a third of it and to make that a bequest."

Section: The Blood-Money for Accidental Injury

Book 43, Number 43.5.4a:

Malik related to me that the generally agreed on way of doing things amongst the community about an accident is that there is no blood-money until the victim is better. If a man's bone, either a hand, or a foot, or another part of his body, is broken accidentally and it heals and becomes sound and returns to its form, there is no blood-money for it. If the limb is impaired or there is a scar on it, there is blood-money for it according to the extent that it is impaired.

Malik said, "If that part of the body has a specific blood-money mentioned by the Prophet, may Allah bless him and grant him peace, it is according to what the Prophet, may Allah bless him and grant him peace, specified. If it is part of what does not have a specific blood-money for it mentioned by the Prophet, may Allah bless him and grant him peace, and if there is no previous sunna about it or specific blood-money, one uses ijtihad about it."

Malik said, "There is no blood-money for an accidental bodily injury when the wound heals and returns to its form. If there is any scar or mark in that, ijtihad is used about it except for the belly-wound. There is a third of the blood-money of a life for it. "

Malik said, "There is no blood-money for the wound which splinters a bone in the body, and it is like the wound to the body which lays bare the bone."

Malik said, "The generally agreed on way of doing things in our community is that when the doctor performs a circumcision and cuts off the glans, he must pay the full blood-money. That is because it is an accident which the tribe is responsible for, and the full blood money is payable for all that in which a doctor errs or exceeds, when it is not intentional."

Section: The Blood-Money of Women

Book 43, Number 43.6.4b:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab said, "The blood-money for a woman is the same as for a man up to one third of the blood-money. Her finger is like his finger, her tooth is like his tooth, her injury which lays bare the bone is like his, and her head wound which splinters the bone is like his."

Yahya related to me from Malik that Ibn Shihab and also Urwa ibn az-Zubayr said the same as Said ibn al-Musayyab said about a woman. Her blood-money from a man is the same up to a third of the blood-money of a man. If what she is owed exceeds a third of the blood-money of the man, she is given up to half of the blood-money of a man.

Malik said, "The explanation of that is that she has blood-money for a head wound that lays bare the bone and one that splinters the bone and for what is less than the brain wound and the belly wound and the like of that of those which obliges a third of the blood-money or more. If the amount owed her exceeds that, her blood-money

in that is half of the blood-money of a man."

Yahya related to me from Malik that he heard Ibn Shihab say, "The precedent of the sunna when a man injures a woman is that he must pay the blood-money for that injury and there is no retaliation against him."

Malik said, "That is an accidental injury, when a man strikes a woman and hits with a blow what he did not intend, for instance, if he struck her with a whip and cut her eye open and the like of that."

Malik said about a woman who has a husband and children who are not from her paternal relatives or her people, that since he is from another tribe, there is no blood-money against her husband for her criminal action, nor any against her children if they are not from her people, nor any against her maternal brothers when they are not from her paternal relations or her people. These are entitled to her inheritance but only the paternal relations have paid blood-money from since the time of the Messenger of Allah, may Allah bless him and grant him peace. Until today it is like that with the mawla of a woman. The inheritance they leave goes to the children of the woman even if they are not from her tribe, but the blood-money of the criminal act of the mawla is only against her tribe."

Section: The Blood-Money for the Foetus

Book 43, Number 43.7.5:

Yahya related to me from Malik from Ibn Shihab from Abu Salama ibn Abd ar-Rahman ibn Awf from Abu Hurayra that a woman from the Hudhayl tribe threw a stone at a woman from the same tribe, and she had a miscarriage. The Messenger of Allah, may Allah bless him and grant him peace, gave a judgement that a slave or slave-girl of fair complexion and excellence should be given to her.

Book 43, Number 43.7.6:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab that the Messenger of Allah, may Allah bless him and grant him peace, gave a judgement that the compensation for a foetus killed in its mother's womb was a slave or slave-girl of fair complexion and excellence. The one against whom the judgement was given said, "Why should I pay damages for that which did not drink or eat or speak or make any cry. The like of that is nothing." The Messenger of Allah, may Allah bless him and grant him peace, said, "This is only one of the brothers of the diviners." He disapproved of the rhyming speech of the man's declaration.

Yahya related to me from Malik that Rabia ibn Abi Abd ar-Rahman said, "The slave of fair complexion and excellence is estimated at fifty dinars or six hundred dirhams. The blood-money of a free muslim woman is five hundred dinars or six thousand dirhams."

Malik said, "The blood-money of the foetus of a free woman is a tenth of her blood-money. The tenth is fifty dinars or six hundred dirhams."

Malik said, "I have not heard anyone dispute that there is no slave in compensation for the foetus until it leaves its mother's womb and falls still-born from her womb . "

Malik said, "I heard that if the foetus comes out of its mother's womb alive and then dies, the full blood-money is due for it."

Malik said, "The foetus is not alive unless it cries at birth. If it comes out of its mother's womb and cries out and then dies, the complete blood-money is due for it. We think that the slave-girl's foetus has a tenth of the price of the slave-girl."

Malik said, "When a woman murders a man or woman, and the murderess is pregnant, retaliation is not taken against her until she has given birth. If a woman who is pregnant is killed intentionally or unintentionally, the one who killed her is not obliged to pay anything for her foetus. If she is murdered, then the one who killed her is killed and there is no blood-money for her foetus. If she is killed accidentally, the tribe obliged to pay on behalf of her killer pays her blood-money, and there is no blood-money for the foetus."

Yahya related to me, "Malik was asked about the foetus of the christian or jewish woman which was aborted. He said, 'I think that there is a tenth of the blood-money of the mother for it.' "

Section: Injuries For Which There is Full Blood-Money

Book 43, Number 43.8.6a:

Yahya related to me from Malik from Ibn Shihab that Said ibn al-Musayyab used to say, "The full blood-money is payable for cutting off both lips, but when the lower one only is cut off, two-thirds of the blood-money is due for it."

Yahya related to me from Malik that he asked Ibn Shihab about the one-eyed man who gouged out the eye of a healthy person. Ibn Shihab said, "If the healthy person wants to take retaliation from him, he can have his retaliation. If he prefers, he has blood-money of one thousand dinars, twelve thousand dirhams."

Yahya related to me from Malik that he heard that full blood-money was payable for both of a pair of anything in a man that occurred in pairs, and the tongue had full blood-money. The ears, when their hearing departed, had full blood-money, whether or not they were cut off, and a man's penis had full blood-money and the testicles had full blood-money.

Yahya related to me from Malik that he heard that the breasts of a woman had full blood-money.

Malik said, "The least of that are the eyebrows and a man's breasts."

Malik said, "What is done in our community when a man is injured in his extremities to an extent that obliges payment of more than the amount of his full blood-money, is that it is his right. If his hands, feet, and eyes are all injured, he has three full blood-moneys."

Malik said about the sound eye of a one-eyed man when it is accidentally gouged out, "The full blood-money is payable for it."

Section: The Blood-Money for an Eye whose Sight is Lost

Book 43, Number 43.9.6b:

Yahya related to me from Malik from Yahya ibn Said from Sulayman ibn Yasar that Zayd ibn Thabit used to say, "When the eye remains but the sight is lost, one hundred dinars are payable for it."

Yahya said, "Malik was asked about cutting off the lower lid of the eye and the bone around the eye. He said, 'There is only ijtihad in that unless the vision of the eye is impaired. He is entitled to an amount that is compatible to the extent the vision of the eye has been impaired."

Yahya said that Malik said, "What is done in our community about removing the bad eye of a one-eyed man when it has already been blinded and still remains there in its place and the paralyzed hand when it is cut off, is that there is only ijtihad in that, and there is no prescribed blood-money."

Section: The Blood-Money for Head Wounds

Book 43, Number 43.10.6c:

Yahya related to me from Malik that Yahya ibn Said heard Sulayman ibn Yasar mention that a face wound in which the bone was bared was like a head wound in which the bone was bared, unless the face was scarred by the wound. Then the blood-money is increased by one half of the blood-money of the head wound in which the skin was bared so that seventy five dinars are payable for it.

Malik said, "What is done in our community is that the head wound with splinters has fifteen camels." He explained, "The head wound with splinters is that from which pieces of bone fly off and which does not reach the brain. It can be in the head or the face."

Malik said, "The generally agreed on way of doing things in our community, is that there is no retaliation for a wound to the brain or a belly wound, and Ibn Shihab has said, 'There is no retaliation for a wound to the brain.' "

Malik explained, "The wound to the brain is what pierces the bones to the brain. This type of wound only occurs in the head. It is that which reaches the brain when the bones are pierced."

Malik said, "What is done in our community is that there is no blood-money paid on any head wound less than one which lays bare the skull. Blood-money is payable only for the head wound that bares the bone and what is worse than that. That is because the Messenger of Allah, may Allah bless him and grant him peace, stopped at the head wound which bared the bone in his letter to Amr ibn Hazm. He made it five camels. The imams, past and present, have not made any blood-money payable

for injuries less than the head wound which bares the bone."

Yahya related to me from Malik from Yahya ibn Said, that Said ibn al-Musayyab said, "For every piercing wound in any of the organs or limbs of the body, one third of the blood-money of that limb is payable."

Malik related to me, "Ibn Shihab did not think and nor do I, that there is a generally agreed on way of doing things regarding a piercing wound in any of the organs or limbs of the body, but I think that there is ijtihad in the case. The imam uses ijtihad in it, and there is no generally agreed on way of doing things in our community about it."

Malik said, "What is done in our community about the wound to the brain and the wound which splinters the bone, and the wound that bares the bone is that they apply only to the head and face. Whatever of that occurs in the body only has ijtihad in it."

Malik said, "I do not think the lower jaw and the nose are part of the head in their injury because they are separate bones, and except for them the head is one bone."

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman that Abdullah ibn az-Zubayr allowed retaliation for a head wound which splintered the bone.

Section: The Blood-Money for Fingers

Book 43, Number 43.11.6d:

ibn Abi Abd ar-Rahman said, "I asked Said ibn al Musayyab, 'How much for the finger of a woman?' He said, 'Ten camels' I said, 'How much for two fingers?' He said, 'Twenty camels.' I said, 'How much for three?' He said, 'Thirty camels.' I said, 'How much for four?' He said, 'Twenty camels.' I said, 'When her wound is greater and her affliction stronger, is her blood-money then less?' He said, 'Are you an Iraqi?' I said, 'Rather, I am a scholar who seeks to verify things, or an ignorant man who seeks to learn.' Said said, 'It is the sunna, my nephew.' "

Malik said, "What is done in our community about all the fingers of the hand being cut off is that its blood-money is complete. That is because when five fingers are cut, their blood-money is the blood-money of the hand: fifty camels. Each finger has ten camels."

Malik said, "The reckoning of the fingers is thirty-three dinars for each fingertip, and that is three and a third shares of camels."

Section: General Section on the Blood-Money for Teeth

Book 43, Number 43.12.7:

Yahya related to me from Malik from Zayd ibn Aslam from Muslim ibn Jundub from Aslam, the mawla of Umar ibn al-Khattab that Umar ibn al-Khattab decided on a camel for a molar, a camel for a collar-bone, and a camel for a rib.

Yahya related to me from Malik that Yahya ibn Said heard Said ibn al-Musayyab say, "Umar ibn al-Khattab decided on a camel for each molar, and Muawiya ibn Abi Sufyan decided on five camels for each molar."

Said ibn al-Musayyab said, "The blood-money is less in the judgement of Umar ibn al-Khattab and more in the judgement of Muawiya. Had it been me, I would have made it two camels for each molar. That is the fair blood-money, and every one who strives with ijtihad is rewarded."

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyab used to say,' 'When a tooth is struck and becomes black, there is complete blood-money for it. If it falls out after it becomes black, there is also the complete blood-money for it."

Section: Procedure in the Blood-Money for Teeth

Book 43, Number 43.13.8:

Yahya related to me from Malik from Da'ud ibn al-Husayn that Abu Ghatafan ibn Tarif al-Murri informed him that Marwan ibn al-Hakam sent him to Abdullah ibn Abbas to ask him what there was for the molar. Abdullah ibn Abbas said, "There are five camels for it." He said, "Marwan sent me back again to Abdullah ibn Abbas." He said, "Do you make front teeth like molars?" Abdullah ibn Abbas said, "It is enough that you take the fingers as the example for that, their blood-moneys being all the same."

Yahya related to me from Malik from Hisham ibn Urwa that his father made all the teeth the same in the blood-money and did not prefer any kind over others.

Malik said, "What is done in our community is that the front teeth, molars, and eye-teeth have the same blood-money. That is because the Messenger of Allah, may Allah bless him and grant him peace, said, 'The tooth has five camels.' The molar is one of the teeth and he did not prefer any kind over the others."

Section: The Blood-Money for Injuries to Slaves

Book 43, Number 43.14.8a:

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab and Sulayman ibn Yasar said, "The head wound of the slave in which the bone is bared is a twentieth of his price."

Malik related to me that he had heard that Marwan ibn al-Hakam gave a decision about a slave who was injured that the person who injured him had to pay what he had diminished of the value of the slave.

Malik said, "What is done in our community is that for the head wound of a slave that bares the bone, there is a twentieth of his price. The head wound which splinters the bone is three twentieths of his price. Both the wound to the brain and the belly wound are a third of his price. Besides these four, any other types of injury that

decrease the price of the slave are considered after the slave is better and well, and one sees what the value of the slave is after his injury and what his value whole was before he had the injury. Then the one who injured him pays the difference between the two values."

Section: The Blood-Money of the People of Protection (Dhimma)

Book 43, Number 43.15.8b:

Yahya related to me from Malik that he heard that Umar ibn Abd al-Aziz gave a decision that when a jew or christian was killed, his blood-money was half the blood-money of a free muslim.

Malik said, "What is done in our community, is that a muslim is not killed for a kafir unless the muslim kills him by deceit. Then he is killed for it."

Yahya related to me from Malik from Yahya ibn Said that Sulayman ibn Yasar said, "The blood-money of a magian is eight hundred dirhams."

Malik said, "This is what is done in our community."

Malik said, "The blood-monies of the jew, christian, and magian in their injuries, is according to the injury of the muslims in their blood-moneys. The head wound is a twentieth of his full blood-money. The wound that opens the head is a third of his blood-money. The belly-wound is a third of his blood-money. All their injuries are according to this calculation."

Section: Blood-Money that has to be Paid as an Individual

Book 43, Number 43.16.8c:

Yahya related to me from Malik from Hisham ibn Urwa that his father said, "The tribe is not obliged to pay blood-money for intentional murder. They pay blood-money for accidental killing."

Yahya related to me from Malik that Ibn Shihab said, "The precedent of the sunna is that the tribe are not liable for any blood-money of an intentional killing unless they wish that."

Yahya related to me from Malik from Yahya ibn Said the same as that.

Malik said that Ibn Shihab said, "The precedent of the sunna in the intentional murder is that when the relatives of the murdered person relinquish retaliation, the blood-money is owed by the murderer from his own property unless the tribe helps him with it willingly."

Malik said, "What is done in our community is that the blood-money is not obliged against the tribe until it has reached a third of the full amount and upwards. Whatever reaches a third is against the tribe, and whatever is below a third, is against the property of the one who did the injury."

Malik said, "The way of doing things about which there is no dispute among us, in the case of someone who has the blood-money accepted from him in intentional murder or in any injury in which there is retaliation, is that that blood-money is not due from the tribe unless they wish it. The blood-money for that is from the property of the murderer or the injurer if he has property. If he does not have any property, it is a debt against him, and none of it is owed by the tribe unless they wish."

Malik said, "The tribe does not pay blood-money to anyone who injures himself, intentionally or accidentally. This is the opinion of the people of fiqh in our community. I have not heard that anyone has made the tribe liable for any blood-money incurred by intentional acts. Part of what is well-known of that is that Allah, the Blessed, and the Exalted, said in His Book, 'Whoever has something pardoned him by his brother, should follow it with what is accepted and pay it with good will' (Sura 2 ayat 178) The commentary on that - in our view - and Allah knows best, is that whoever gives his brother something of the blood-money, should follow it with what is accepted and pay him with good will."

Malik spoke about a child who had no property and a woman who had no property. He said, "When one of them causes an injury below a third of the blood-money, it is taken on behalf of the child and woman from their personal property, if they have property from which it may be taken. If not, the injury which each of them has caused is a debt against them. The tribe does not have to pay any of it and the father of a child is not liable for the blood-money of an injury caused by the child and he is not responsible for it."

Malik said, "The way of doing things in our community about which there is no dispute, is that when a slave is killed, the value for him is that of the day on which he was killed. The tribe of the murderer is not liable for any of the value of the slave, great or small. That is the responsibility of the one who struck him from his own personal property as far as it covers. If the value of the slave is the blood-money or more, that is against him in his property. That is because the slave is a certain type of goods."

Section: Inheritance of Blood-Money and Dealing Harshly in Taking It

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Book 43, Number 43.17.9:

Yahya related to me from Malik from Ibn Shihab that Umar ibn al-Khattab demanded of the people at Mina, "If anyone has knowledge of blood-money, let him inform me." Ad-Dahhak ibn Sufyan al-Kilabi stood up and said, "The Messenger of Allah, may Allah bless him and grant him peace, wrote to me that the wife of Ashyam ad-Dibabi inherited from the blood-money of her husband." Umar ibn al-Khattab said to him, "Go into the tent until I come to you." When Umar ibn al-Khattab came in, ad-Dahhak told him about it and Umar ibn al-Khattab gave a decision based on that.

Ibn Shihab said, "The killing of Ashyam was accidental."

Book 43, Number 43.17.10:

Malik related to me from Yahya ibn Said from Amr ibn Shuayb that a man of the Banu Mudlij called Qatada threw a sword at his son and it struck his thigh. The wound bled profusely and he died. Suraqa ibn Jusham came to Umar ibn al-Khattab and mentioned that to him Umar said to him, "At the watering place of Qudayd count one hundred and twenty camels and wait until I come to you." When Umar ibn al-Khattab came to him, he took thirty four-year-old camels, thirty five-year-old camels, and forty pregnant camels from them. Then he said, "Where is the brother of the slain man?" He said, "Here." He said, "Take them. The Messenger of Allah, may Allah bless him and grant him peace, said, 'The killer gets nothing.' "

Malik said that he had heard that Said ibn al-Musayyab and Sulayman ibn Yasar were asked, "Does one deal more harshly in taking the blood-money in the sacred month?" They said, "No. But it is increased in it because of violating the month." It was said to Said, "Does one increase for the wound as one increases for the life?" He said, "Yes."

Malik added, "I think that they meant the same as what Umar ibn al-Khattab did with respect to the blood-money of the Mudliji when he struck his son." (i.e. giving 120 camels instead of 100).

Book 43, Number 43.17.11:

11 Malik related to me from Yahya ibn Said from Urwa ibn az-Zubayr that a man of the Ansar called Uhayha ibn al-Julah had a young paternal uncle who was younger than him and who was living with his maternal uncles. Uhayha took him and killed him. His maternal uncles said, "We brought him up from a baby to a youth till he stood firm on his feet, and we have had the right of a man taken from us by his paternal uncle." Urwa said, "For that reason a killer does not inherit from the one he killed."

Malik said, "The way of doing things about which there is no dispute is that the intentional murderer does not inherit anything of the blood-money of the person he has murdered or any of his property. He does not stop anyone who has a share of inheritance from inheriting. The one who kills accidentally does not inherit anything of the blood-money and there is dispute as to whether or not he inherits from the dead person's property because there is no suspicion that he killed him for his inheritance and in order to take his property. I prefer that he inherit from the dead person's property and not inherit from the blood-money."

Section: General Section on Blood-Money

Book 43, Number 43.18.12:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab and Abu Salama ibn Abd ar-Rahman from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "The wound of an animal is of no account and no compensation is due for it. The well is of no account and no compensation is due for it. The mine is of no account and no compensation is due for

it and a fifth is due for buried treasures." (Al-kanz: see Book 17).

Malik said, "Everyone leading an animal by the halter, driving it, and riding it is responsible for what the animal strikes unless the animal kicks out without anything being done to it to make it kick out. Umar ibn al-Khattab imposed the blood-money on a person who was exercising his horse."

Malik said, "It is more fitting that a person leading an animal by the halter, driving it, or riding it incur a loss than a person who is exercising his horse." (See hadith 4 of this book).

Malik said, "What is done in our community about a person who digs a well on a road or ties up an animal or does the like of that on a road used by muslims, is that since what he has done is included in that which he is not permitted to do in such a place, he is liable for whatever injury or other thing arises from that action. The blood-money of that which is less than a third of the full blood-money is owed from his own personal property. Whatever reaches a third or more, is owed by his tribe. Any such things that he does which he is permitted to do on the muslims' road are something for which he has no liability or loss. Part of that is a hole which a man digs to collect rain, and the beast from which the man alights for some need and leaves standing on the road. There is no penalty against anyone for this."

Malik spoke about a man who went down a well, and another man followed behind him, and the lower one pulled the higher one and they fell into the well and both died He said, "The tribe of the one who pulled him in is responsible for the blood-money."

Malik spoke about a child whom a man ordered to go down into a well or to climb a palm tree and he died as a result. He said, "The one who ordered him is liable for whatever befalls him, be it death or something else."

Malik said, "The way of doing things in our community about which there is no dispute is that women and children are not obliged to pay blood-money together with the tribe in the blood-moneys which the tribe must pay. The blood-money is only obligatory for a man who has reached puberty."

Malik said that the tribe could bind themselves to the blood-money of mawali if they wished. If they refused, they were people of the diwan or were cut off from their people. In the time of the Messenger of Allah, may Allah bless him and grant him peace, people paid the blood-money to each other as well as in the time of Abu Bakr as-Siddiq before there was a diwan. The diwan was in the time of Umar ibn al-Khattab. No one other than one's people and the ones holding the wala' paid blood-money for one because the wala' was not transferable and because the Prophet, may Allah bless him and grant him peace, said, "The wala' belongs to the one who sets free."

Malik said, "The wala' is an established relationship."

Malik said, "What is done in our community about animals that are injured is that the person who causes the injury pays whatever of their value has been diminished."

Malik said about a man condemned to death and one of the other hudud befell him,

"He is not punished for it. That is because the killing overrides all of that, except for slander. The slander remains hanging over the one to whom it was said because it will be said to him, 'Why do you not flog the one who slandered you?' I think that the condemned man is flogged with the hadd before he is killed, and then he is killed. I do not think that any retaliation is inflicted on him for any injury except killing because killing overrides all of that."

Malik said, "What is done in our community is that when a murdered person is found among the main body of a people in a village or other place, the house or place of the nearest people to him is not responsible. That is because the murdered person can be slain and then cast at the door of some people to shame them by it. No one is responsible for the like of that."

Malik said about a group of people who fight with each other and when the fight is broken up, a man is found dead or wounded, and it is not known who did it, "The best of what is heard about that is that there is blood-money for him, and the blood-money is against the people who argued with him. If the injured or slain person is not from either of the two parties, his blood-money is against both of the two parties together."

Section: Killing Secretly by Trickery and Sorcery

Book 43, Number 43.19.13:

Yahya related to me from Malik from Yahya ibn Said from Said ibn al-Musayyab that Umar ibn al-Khattab killed five or seven people for one man whom they had killed secretly by trickery. Umar said, "Had all the people of Sana joined forces against him, I would have killed them all."

Book 43, Number 43.19.14:

Yahya related to me from Malik from Muhammad ibn Abd ar-Rahman ibn Sad ibn Zurara that he had heard that Hafsa, the wife of the Prophet, may Allah bless him and grant him peace, killed one of her slave-girls who had used sorcery against her. She was a mudabbara. Hafsa gave the order, and she was killed.

Malik said, "The sorcerer is the one who uses sorcery for himself and no one else uses that for him. It is like the one about whom Allah, the Blessed, the Exalted, said in His Book, 'They know the one who devotes himself to it will have no share in the Next World.' (Sura 2 ayat 102) I think that that person is killed if he does that himself."

Section: What Is Obligatory for Intentional Injury

Book 43, Number 43.20.15:

Yahya related to me from Malik from Umar ibn Husayn, the mawla of A'isha bint Qudama, that Abd al-Malik ibn Marwan imposed retaliation against a man who killed a mawla with a stick and so the mawla's patron killed the man with a stick.

Malik said, "The generally agreed on way of doing things in our community about which there is no dispute is that when a man strikes another man with a stick or hits him with a rock or intentionally strikes him causing his death, that is an intentional injury and there is retaliation for it."

Malik said, "Intentional murder with us is that a man intentionally goes to a man and strikes him until his life goes. Part of intentional injury also is that a man strikes a man in a quarrel between them. He leaves him while he is alive, and he bleeds to death and so dies. There is retaliation for that."

Malik said, "What is done in our community is that a group of free men are killed for the intentional murder of one free man, and a group of women for one woman, and a group of slaves for one slave."

Section: Retaliation in Killing

Book 43, Number 43.21.15a:

Yahya related to me from Malik that he had heard that Marwan ibn al-Hakam wrote to Muawiya ibn Abi Sufyan to mention to him that a drunkard was brought to him who had killed a man. Muawiya wrote to him to kill him in retaliation for the dead man.

Yahya said that Malik said, "The best of what I have heard on the interpretation of this ayat, the word of Allah, the Blessed, the Exalted, 'The free man for the free man and the slave for the slave - these are men and the woman for the woman,' (Sura 2 ayat 178) is that retaliation is between women as it is between men. The free woman is killed for the free woman as the free man is killed for the free man. The slave-girl is slain for the slave-girl as the slave is slain for the slave. Retaliation is between women as it is between men. That is because Allah, the Blessed, the Exalted, said in His Book, 'We have written for them in it that it is a life for a life and an eye for an eye, a nose for a nose, and an ear for an ear, and a tooth for a tooth, and for wounds there is retaliation.' (Sura 5 ayat 48) Allah, the Blessed, the Exalted, mentioned that it is a life for a life. It is the life of a free woman for the life of a free man, and her injury for his injury."

Malik said about a man who held a man fast for another man to hit, and he died on the spot, "If he held him and he thought that he meant to kill him, the two of them are both killed for him. If he held him and he thought that he meant to beat him as people sometimes do, and he did not think that he meant to kill him, the murderer is slain and the one who held him is punished with a very severe punishment and jailed for a year. There is no killing against him."

Malik said about a man who murdered a man intentionally or gouged out his eye intentionally, and then was slain or had his eye gouged out himself before retaliation was inflicted on him, "There is no blood-money nor retaliation against him. The right of the one who was killed or had his eye gouged out goes when the thing which he is claiming as retaliation goes. It is the same with a man who murders another man intentionally and then the murderer dies. When the murderer dies, the one seeking

blood-revenge has nothing of blood-money or anything else. That is by the word of Allah, the Blessed the Exalted, 'Retaliation is written for you in killing. The free man for the free man and the slave for the slave.' "

Malik said, "He only has retaliation against the one who killed him. If the man who murdered him dies, he has no retaliation or blood-money."

Malik said, "There is no retaliation held against a free man by a slave for any injury. The slave is killed for the free man when he intentionally murders him. The free man is not slain for the slave, even if he murders him intentionally. It is the best of what I have heard."

Section: Pardoning Murder

Book 43, Number 43.22.15b:

Yahya related to me from Malik that he saw whomever he was satisfied with among the people of knowledge say about a man who willed that his murderer be pardoned when he murdered him intentionally, "That is permitted for him. He is more entitled to the man's blood than any of his relatives after him."

Malik said about a man who pardoned murder, after he had claimed his right and it was obliged for him, "There is no blood-money against the murderer unless the one who pardons him stipulates that when he pardons him."

Malik said about the murderer when he was pardoned, "He is flogged one hundred lashes and jailed for a year."

Malik said, "When a man murders intentionally and there is a clear proof of that, and the murdered man has sons and daughters and the sons pardon and the daughters refuse to pardon, the pardon of the sons is permitted in opposition to the daughters and there is no authority for the daughters with the sons in demanding blood and pardoning."

Section: Retaliation in Injury

Book 43, Number 43.23.15c:

Yahya said that Malik said, "The generally agreed on way of doing things in our community is that retaliation is taken from someone who breaks someone's hand or foot intentionally and not blood-money."

Malik said, "Retaliation is not inflicted on anyone until the wound of the injured party has healed. Then retaliation is inflicted on him. If the wound of the person on whom the retaliation has been inflicted is like the first person's wound when it heals, it is retaliation. If the wound of the one on whom the retaliation has been inflicted becomes worse or he dies, there is nothing held against the one who has taken retaliation. If the wound of the person on whom the retaliation has been inflicted heals and the injured party is paralysed or his injury has healed but he has a scar, defect, or blemish, the person on whom the retaliation has been inflicted does not

have his hand broken again and further retaliation is not taken for his injury."

He said, "But there is blood-money from him according to what he has impaired or maimed of the hand of the injured party. The bodily injury is also like that."

Malik said, "When a man intentionally goes to his wife and gouges out her eye or breaks her hand or cuts off her finger or such like, and does it intentionally, retaliation is inflicted on him. As for a man who strikes his wife with a rope or a whip and hits what he did not mean to hit or does what he did not intend to do, he pays blood-money for what he has struck according to this principle, and retaliation is not inflicted on him."

Yahya related to me from Malik that he had heard that Abu Bakr ibn Muhammd ibn Amr ibn Hazm took retaliation for the breaking of a leg.

Section: The Blood-Money and Crime of the Slave Set Free and from Whom his Former Master does Not Inherit

Book 43, Number 43.24.15d:

Yahya related to me from Malik from Abu'z-Zinad from Sulayman ibn Yasar that a slave was set free by one of the people on hajj and his master had abandoned the right to inherit from him. The ex-slave then killed a man from the Banu A'idh tribe. An A'idhi, the father of the slain man came to Umar ibn al-Khattab seeking the blood-money of his son. Umar said, "He has no blood-money." The A'idhi said, "What would you think if it had been my son who killed him?" Umar said, "Then you would pay his blood-money." He said, "He is then like the black and white Arqam snake. If it is left, it devours and if it is killed, it takes revenge."

Translation of Malik's Muwatta, Book 44:

The Oath of Qasama

Section: Beginning With the People Seeking Blood Revenge in the Oath

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Book 44, Number 44.1.1:

Yahya related to me from Malik from Abu Layla ibn Abdullah ibn Abd ar-Rahman ibn Sahl from Sahl ibn Abi Hathma that some of the great men of his people informed him that Abdullah ibn Sahl and Muhayyisa went out to Khaybar because extreme poverty had overtaken them. Muhayyisa returned and said that Abdullah ibn Sahl had been killed and thrown in a shallow well or spring. The jews came and he said, "By Allah! You have killed him." They said, "By Allah! We have not killed him!" Then he made for his people and mentioned that to them. Then he, his brother Huwayyisa, who was older than him, and Abd ar-Rahman, set out. Muhayyisa began to speak, as he had been at Khaybar. The Messenger of Allah, may Allah bless him and grant him peace, said to him, "The greater first, the greater first," meaning in age. So Huwayyisa spoke and then Muhayyisa spoke. The Messenger of Allah, may Allah bless him and grant him peace, said, "Either they pay your companion's blood-money or we will declare war against them." The Messenger of Allah, may Allah bless him and grant him peace, wrote that to them and they wrote, "By Allah, we did not kill him!" The Messenger of Allah, may Allah bless him and grant him peace, said to Huwayyisa, Muhayyisa, and Abd ar-Rahman, "Do you swear and claim the blood of your companion?" They said, "No." He said, "Shall the jews swear to you?" They said, "But they are not muslims." The Messenger of Allah, may Allah bless him and grant him peace, gave blood-money from his own property, and sent them one hundred camels to their house.

Sahl added, "A red camel among them kicked me."

Book 44, Number 44.1.2:

Yahya said from Malik from Yahya ibn Said that Bushayr ibn Yasar informed him that Abdullah ibn Sahl al-Ansari and Muhayyisa ibn Masud went out to Khaybar, and they separated on their various businesses and Abdullah ibn Sahl was killed. Muhayyisa, and his brother Huwayyisa and Abd ar-Rahman ibn Sahl went to the Prophet, may Allah bless him and grant him peace, and Abd ar-Rahman began to speak before his brother. The Messenger of Allah, may Allah bless him and grant him peace, said, "The older first, the older first.

Therefore Huwayyisa and then Muhayyisa spoke and mentioned the affair of Abdullah ibn Sahl. The Messenger of Allah, may Allah bless him and grant him peace, said to them, "Do you swear with fifty oaths and claim the blood-money of your companion or the life of the murderer?" They said, "Messenger of Allah, we did

not see it and we were not present." The Messenger of Allah, may Allah bless him and grant him peace, said, "Will you acquit the jews for fifty oaths?' They said, "Messenger of Allah, how can we accept the oaths of a people who are kafirun?"

Yahya ibn Said said, "Bushayr ibn Yasar claimed that the Messenger of Allah, may Allah bless him and grant him peace, paid the blood-money from his own property."

Malik said, "The generally agreed on way of doing things in our community and that which I heard from whoever I am content with, concerning the oath of qasama, and upon which the past and present imams agree, is that those who claim revenge begin with the oaths and swear. The oath for revenge is only obligatory in two situations. Either the slain person says, 'My blood is against so-and-so,' or the relatives entitled to the blood bring a partial proof of it that is not irrefutable against the one who is the object of the blood-claim. This obliges taking an oath on the part of those who claim the blood against those who are the object of the blood-claim. With us, swearing is only obliged in these two situations."

Malik said, "That is the sunna in which there is no dispute with us and which is still the behaviour of the people. The people who claim blood begin the swearings, whether it is an intentional killing or an accident."

Malik said, "The Messenger of Allah, may Allah bless him and grant him peace, began with Banu Harith in the case of the killing of their kinsman murdered at Khaybar."

Malik said, "If those who make the claim swear, they deserve the blood of their kinsman and whoever they swear against is slain. Only one man can be killed in the qasama. Two cannot be killed in it. Fifty men from the blood-relatives must swear fifty oaths. If their number is less or some of them draw back, they can repeat their oaths, unless one of the relatives of the murdered man who deserves blood and who is permitted to pardon it, draws back. If one of these draws back, there is no way to revenge."

Yahya said that Malik said, "The oaths can be made by those of them who remain if one of them draws back who is not permitted to pardon. If one of the blood-relatives draws back who is permitted to pardon, even if he is only one, more oaths can not be made after that by the blood-relatives. If that occurs, the oaths can be on behalf of the one against whom the claim is made. So fifty of the men of his people swear fifty oaths. If there are not fifty men, more oaths can be made by those of them who already swore. If there is only the defendant, he swears fifty oaths and is acquitted."

Yahya said that Malik said, "One distinguishes between swearing for blood and oaths for one's rights. When a man has a money-claim against another man, he seeks to verify his due. When a man wants to kill another man, he does not kill him in the midst of people. He keeps to a place away from people. Had there only been swearing in cases where there is a clear proof and had one acted in it as one acts about one's rights (i.e. needing witnesses), the right of blood retribution would have been lost and people would have been swift to take advantage of it when they learned of the decision on it. However, the relatives of the murdered man were allowed to initiate swearing so that people might restrain themselves from blood and the

murderer might beware lest he was put into a situation like that (i.e. qasama) by the statement of the murdered man.' "

Yahya said, "Malik said about a people of whom a certain number are suspected of murder and the relatives of the murdered man ask them to take oaths and they are numerous, so they ask that each man swears fifty oaths on his own behalf. The oaths are not divided out between them according to their number and they are not acquitted unless each man among them swears fifty oaths on his own behalf."

Malik said, "This is the best I have heard about the matter."

He said, "Swearing goes to the paternal relatives of the slain. They are the blood-relatives who swear against the killer and by whose swearing he is killed."

Section: Blood-Relatives Who are Permitted to Swear in the Intentional Act

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Book 44, Number 44.2.2a:

Yahya said that Malik said, "The way of doing things in our community about which there is no dispute is that women do not swear in the swearing for the intentional act. If the murdered man only has female relatives, the women have no right to swear for blood and no pardon in murder."

Yahya said that Malik said about a man who is murdered, "If the paternal relatives of the murdered man or his mawali say, 'We swear and we demand our companion's blood,' that is their right."

Malik said, "If the women want to pardon him, they cannot do that. The paternal relatives and mawali are entitled to do that more than them because they are the ones who demand blood and swear for it."

Malik said, "If the paternal relatives or mawali pardon after they demand blood and the women refuse and say, 'We will not abandon our right against the murderer of our companion,' the women are more entitled to that because whoever takes retaliation is more entitled than the one who leaves it among the women and paternal relatives when the murder is established and killing obliged."

Malik said, "At least two claimants must swear in murder. The oaths are repeated by them until they swear fifty oaths, then they have the right to blood. That is how things are done in our community."

Malik said, "When people beat a man and he dies in their hands, they are all slain for him. If he dies after their beating, there is swearing. If there is swearing, it is only against one man and only he is slain. We have never known the swearing to be against more than one man."

Malik spoke about a slave who had his hand or foot broken and then the break mended . He said, "The one who injured him is not obliged to pay anything. If that break causes him loss or scar, the one who injured him must pay according to what he diminished of the value of the slave."

Malik said, "What is done in our community about retaliation between slaves is that it is like retaliation between freemen. The life of the slave-girl for the life of the slave, and her injury for his injury. When a slave intentionally kills a slave, the master of the murdered slave has a choice. If he wishes, he kills him, and if he wishes, he takes the blood-money. If he takes the blood-money, he takes the value of his slave. If the owner of the slave who killed wishes to give the value of the murdered slave, he does it. If he wishes, he surrenders his slave. If he surrenders him, he is not obliged to do anything other than that. When the owner of the murdered slave takes the slave who murdered and is satisifed with him, he must not kill him. All retaliations between slaves for cutting off of the hand and foot and such things are dealt with in the same way as in the murder."

Malik said about a muslim slave who injures a jew or christian, "If the master of the slave wishes to pay blood-money for him according to the injury, he does it. Or else he surrenders him and he is sold, and the jew or christian is given the blood-money of the injury or all the price of the slave if the blood-money is greater than his price. The jew or christian is not given a muslim slave."

Section: Swearing in Manslaughter

Book 44, Number 44.3.2b:

Yahya said that Malik said, "The way of doing things in our community about Yahya said that Malik said, "The procedure in swearing in manslaughter is that those who claim blood swear and it becomes due by their swearing. They swear fifty oaths, and there is blood-money for them according to the division of their inheritances. If it is not possible to divide up the oaths which they swear between them evenly, one looks to the one who has most of those oaths against him, and that oath is obliged against him."

Malik said, "If the slain man only has female heirs, they swear and take the blood-money. If he only has one male heir, he swears fifty oaths and takes the blood-money. That is only in the accidental killing, not in the intentional one."

Section: Inheritance in Cases of Qasama

Book 44, Number 44.4.2c:

Yahya said that Malik said, "When the relatives of the deceased accept the blood-money then it is inherited according to the Book of Allah. Daughters of the dead man inherit and so do sisters, and whichever women would inherit from him ordinarily.

If the women do not take all his inheritance, then what remains goes to the agnatic relations who most deserve to inherit from him in conjunction with the women."

Malik said, "When one of the heirs of a man killed by mistake attempts to take his due from the blood-money while his companions are absent, he may not do that, and he has no right to any of the blood-money, however large or small, unless the qasama

has been completed by him. If he swears fifty oaths then he has the right to his portion of the blood-money. That is because the blood-money is not established as due without there being fifty oaths, and the blood-money is not established as due unless the responsibility for the blood is established. If any one of the heirs comes after that he swears a number of the oaths commensurate with his fraction of the inheritance and takes his right until all the heirs exact their complete right. If a maternal uncle comes he has one sixth and must swear one sixth of the fifty oaths. So whoever swears may take his due from the blood-money and whoever abstains annuls his right. If one of the heirs is absent or is a child who has not reached puberty, those who are present swear fifty oaths and if the one who was absent comes after that or the child reaches puberty, they swear. and they swear according to their due of the blood-money and according to their shares of inheritance from it."

Yahya said that Malik said, "This is the best I have heard on the matter."

Section: Swearing for Blood-Revenge in Cases Involving Slaves

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Book 44, Number 44.5.2d:

Yahya said that Malik said, "What is done in our community about slaves is that when a slave is struck intentionally or accidentally and the master brings a witness, he swears with his witness one oath and then he has the value of the slave. There is no swearing for revenge in slaves, accidentally or intentionally, and I have not heard any of the people of knowledge say that there was."

Malik said, "If a slave is killed intentionally or accidentally, the master of the slave who is slain has no swearing or oath. The master cannot demand his right except with a fair proof or a witness if he swears with one witness."

Yahya said that Malik said, "This is the best of what I have heard on the matter."

Translation of Malik's Muwatta, Book 45:

Madina

Section: The Dua for Madina and Its People

Book 45, Number 45.1.1:

Yahya ibn Yahya related to me from Ishaq ibn Abdullah ibn Abi Talha al-Ansari from Anas ibn Malik that the Messenger of Allah, may Allah bless him and grant him peace, said, "O Allah! Bless them in their measure, and bless them in their sa and mudd." He meant the people of Madina.

Book 45, Number 45.1.2:

Yahya related to me from Malik from Suhayl ibn Abi Salih from his father that Abu Hurayra said, "When people saw the first fruits of the season, they brought them to the Messenger of Allah, may Allah bless him and grant him peace. The Messenger of Allah, may Allah bless him and grant him peace, took them and said, 'O Allah! Bless us in our fruits. Bless us in our city. Bless us in our sa and bless us in our mudd. O Allah! Ibrahim is Your slave, Your Khalil and Your Prophet. I am Your slave and Your Prophet. He prayed to You for Makka. I pray to You for Madina for the like of what He prayed to You for Makka, and the like of it with it.' Then he called the smallest child he saw and gave him the fruits."

Section: Residing in Madina and Leaving It

Book 45, Number 45.2.3:

Yahya related to me from Malik from Qatan ibn Wahb ibn Umayr ibn al-Ajda that Yuhannas, the mawla of az-Zubayr ibn al-Awwam informed him that he was sitting with Abdullah ibn Umar during the troubles (at the time of al-Hajaj ibn Yusuf) . A female mawla of his came and greeted him. She said, "I want to leave, Abu Abd ar-Rahman. The time is harsh for us." Abdullah ibn Umar said to her, "Sit down, O you with little knowledge, for I have heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'No one will be patient in hunger and hardship in it (Madina) except that I will be a witness or intercede for him on the Day of Rising.' "

Book 45, Number 45.2.4:

Yahya related to me from Malik from Muhammad ibn al-Munkadir from Jabir ibn Abdullah that a Bedouin took an oath of allegiance in Islam with the Messenger of Allah, may Allah bless him and grant him peace. A fever befell the Bedouin at Madina. He came to the Messenger of Allah, and said, "Messenger of Allah, release

me from my pledge." The Messenger of Allah, may Allah bless him and grant him peace, refused. Then he came to him again and said, "Release me from my pledge." The Messenger of Allah may Allah bless him and grant him peace, refused. Then he came again and said, "Release me from my pledge." He refused. Then he came again and said, "Release me from my pledge." He refused. The Bedouin left and the Messenger of Allah, may Allah bless him and grant him peace, said, "Madina is like the blacksmith's furnace. It removes the impurities and purifies the good."

Book 45, Number 45.2.5:

Malik related to me that Yahya ibn Said said, "I heard Abu'l-Hubab Said ibn Yasar say that he heard Abu Hurayra say that he heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'I was ordered to a town which will eat up towns. They used to say, 'Yathrib,' but it is Madina. It removes the bad people like the blacksmith's furnace removes impurities from the iron.' "

Book 45, Number 45.2.6:

Malik related to me from Hisham ibn Urwa from his father that the Messenger of Allah, may Allah bless him and grant him peace, said, "No one leaves Madina preferring to live elsewhere, but that Allah will give it better than him in place of him ."

Book 45, Number 45.2.7:

Malik related to me from Hisham ibn Urwa from his father from Abdullah ibn az-Zubayr that Sufyan ibn Abi Zuhayr said, "I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'Yemen will be conquered and the people will be attracted to it, taking their families and whoever obeys them. Madina would have been better for them, had they but known. Ash-Sham will be conquered and people will be attracted to it, taking their families and whoever obeys them. Madina would have been better for them, had they but known. Iraq will be conquered and people will be attracted to it, taking their families and whoever obeys them. Madina would have been better for them, had they but known.' "

Book 45, Number 45.2.8:

Yahya related to me from Malik from Ibn Himas from his paternal uncle from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Madina will be left in the best way that it is until a dog or wolf enters it and urinates on one of the pillars of the mosque or on the mimbar." They asked, "Messenger of Allah! Who will have the fruit at that time?" He replied, "Animals seeking food, birds and wild beasts."

Book 45, Number 45.2.9:

Malik related to me that he had heard that when Umar ibn Abd al-Aziz left Madina, he turned towards it and wept. Then he said, "O Muzahim! Do you fear that we

might be among those that Madina casts off?"

Section: The Making a Haram of Madina

Book 45, Number 45.3.10:

Yahya related to me from Malik from Amr, the mawla of al-Muttalib from Anas ibn Malik that the Messenger of Allah, may Allah bless him and grant him peace, saw Uhud and said, "This is a mountain which loves us and we love it. O Allah! Ibrahim made Makka Haram, and I will make what is between the two tracts of black stones (in Madina) a Haram."

Book 45, Number 45.3.11:

Malik related to me from Ibn Shihab from Said ibn al-Musayyab that Abu Hurayra said, "Had I seen a gazelle at Madina, I would have left it to graze and would not have frightened it. The Messenger of Allah, may Allah bless him and grant him peace, said, 'What is between the two tracts of black stones is a Haram.' "

Book 45, Number 45.3.12:

Malik related to me from Yunus ibn Yusuf from Ata ibn Yasar that Abu Ayyub al-Ansari found some boys who had driven a fox into a corner, and he chased them away from it.

Malik said, "I only know that he said, 'Is this done in the Haram of the Messenger of Allah, may Allah bless him and grant him peace?' "

Book 45, Number 45.3.13:

Yahya related to me from Malik from a man who said, "Zayd ibn Thabit came across me while I was at al-Aswaf (on the outskirts of Madina). I had captured a hawk. He took it from my hands and set it free."

Section: The Epidemic of Madina

Book 45, Number 45.4.14:

Yahya related to me from Malik from Hisham ibn Urwa from his father that A'isha, umm al-muminin said, "When the Messenger of Allah, may Allah bless him and grant him peace, came to Madina, Abu Bakr and Bilal came down with a fever. I visited them and said, 'Father, how are you? Bilal, how are you?'" She continued, "When Abu Bakr's fever worsened he would say, 'Every man is struck down among his people in the morning - death is nearer than the strap of his sandal.'"

When it left Bilal, he raised his voice and said, 'Would that I knew whether I will spend a night at the valley of Makka with the idhkhir herb and jalil herb around me. Will I go one day to the waters of Majinna? Will the mountains of Shama and Tafil appear to me?' " '

A'isha continued, "I went to the Messenger of Allah, may Allah bless him and grant him peace, and informed him. He said, 'O Allah! Make us love Madina as much as we love Makka or even more. Make it sound and bless us in our sa and mudd. Remove its fever and put it in al-Juhfa.' "

Book 45, Number 45.4.15:

Malik said that Yahya ibn Said had related to him that A'isha said that Amir ibn Fuhayra had said at the time of the epidemic, "I have seen death before tasting it, the coward's destination is from above him."

Book 45, Number 45.4.16:

Yahya related to me from Malik from Nuaym ibn Abdullah al-Mujmir that Abu Hurayra said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'There are angels at the entries of Madina, and neither plague nor the Dajjal will enter it.' "

Section: The Expulsion of the Jews from Madina

Book 45, Number 45.5.17:

Yahya related to me from Malik from Ismail ibn Abi Hakim that he heard Umar ibn Abd al-Aziz say, "One of the last things that the Messenger of Allah, may Allah bless him and grant him peace, said was, 'May Allah fight the jews and the christians. They took the graves of their Prophets as places of prostration . Two deens shall not co-exist in the land of the Arabs.' "

Book 45, Number 45.5.18:

Yahya related to me from Malik from Ibn Shihab that the Messenger of Allah, may Allah bless him and grant him peace, said, "Two deens shall not co-exist in the Arabian Peninsula."

Malik said that Ibn Shihab said, "Umar ibn al-Khattab searched for information about that until he was absolutely convinced that the Messenger of Allah, may Allah bless him and grant him peace, had said, 'Two deens shall not co-exist in the Arabian Peninsula,' and he therefore expelled the jews from Khaybar."

Book 45, Number 45.5.19:

Malik said, "Umar ibn al-Khattab expelled the jews from Najran (a jewish settlement in the Yemen) and Fadak (a jewish settlement thirty miles from Madina). When the jews of Khaybar left, they did not take any fruit or land. The jews of Fadak took half the fruit and half the land, because the Messenger of Allah, may Allah bless him and grant him peace, had made a settlement with them for that. So Umar entrusted to them the value in gold, silver, camels, ropes and saddle bags of half the fruit and half the land, and handed the value over to them and expelled them."

Section: Concerning Madina

Book 45, Number 45.6.20:

Yahya related to me from Malik from Hisham ibn Urwa from his father that the Messenger of Allah, may Allah bless him and grant him peace, came in view of Uhud and said, "This is a mountain which loves us and we love it."

Book 45, Number 45.6.21:

Yahya related to me from Malik from Yahya ibn Said from Abd ar-Rahman ibn al-Qasim that Aslam, the mawla of Umar ibn al-Khattab informed him that he had visited Abdullah ibn Ayyash al-Makhzumi. He saw that he had some nabidh with him and he was at that moment on the way to Makka. Aslam said to him, "Umar ibn al-Khattab loves this drink." Abdullah ibn Ayyash therefore carried a great drinking bowl and brought it to Umar ibn al-Khattab and placed it before him. Umar brought it near to him and then raised his head. Umar said, "This drink is good," so he drank some of it and then passed it to a man on his right. When Abdullah turned to go, Umar ibn al-Khattab called him and asked, "Are you the person who says that Makka is better than Madina?" Abdullah said, "I said that it was the Haram of Allah, and His place of security, and His House was in it." Umar said, "I am not saying anything about the House of Allah or His Haram." Then Umar repeated "Are you the person who says that Makka is better than Madina?" He replied, "I said that it was the Haram of Allah and His place of security, and His House was in it." Umar said, "I am not saying anything about the House of Allah and His Haram." Then Abdullah left.

Section: About the Plague

Book 45, Number 45.7.22:

Yahya related to me from Malik from Ibn Shihab from Abd al-Hamid ibn Abd ar-Rahman ibn Zayd ibn al-Khattab from Abdullah ibn Abdullah ibn al-Harith ibn Nawfal from Abdullah ibn Abbas that Umar ibn al-Khattab set out for ash Sham and when he was at Sargh, near Tabuk, the commanders of the army, Abu Ubayda ibn al-Jarrah and his companions, met him and told him that the plague had broken out in ash-Sham. Ibn Abbas said, "Umar ibn al-Khattab said, 'all the first Muhajir unto me.' He assembled them and asked them for advice, informing them that the plague had broken out in ash Sham. They disagreed. Some said, 'You have set out for something, and we do not think that you should leave it.' Others said, 'You have the companions of the Prophet, may Allah bless him and grant him peace, and the rest of the people with you, and we do not think that you should send them towards this plague.' Umar said, 'Leave me.'

Then he said, 'Summon the Ansar to me.' They were summoned and he asked them for advice. They acted as the Muhajirun had and disagreed as they had disagreed. He said, 'Leave me.' "Then he said, 'Summon to me whoever is here of the aged men of Quraysh from the Muhajirun of the conquest.' He summoned them and not one of them differed. They said, 'We think that you should withdraw the people and not

send them towards the plague.' Umar called out to the people, 'I am leaving by camel in the morning,' so they set out. Abu Ubayda said, 'Is it flight from the decree of Allah?' Umar said, 'Better that someone other than you had said it, Abu Ubayda. Yes. We flee from the decree of Allah to the decree of Allah. What would you think if these camels had gone down into a valley which had two slopes, one of them fertile, and the other barren. If you pastured in the fertile part, wouldn't you pasture them by the decree of Allah? If you pastured them in the barren part, wouldn't you pasture them by the decree of Allah?'

"Abd ar-Rahman ibn Awf arrived and he had been off doing something and he said, 'I have some knowledge of this. I heard the Messenger of Allah, may Allah bless him and grant him peace, say, "If you hear about it in a land, do not go forward to it. If it comes upon a land and you are in it, then do not depart in flight from it." ' Umar praised Allah and then set off."

Book 45, Number 45.7.23:

Yahya related to me from Malik from Muhammad ibn al-Munkadir and from Salim ibn Abi'n-Nadr, the mawla of Umar ibn Ubaydullah that Amir ibn Sad ibn Abi Waqqas heard his father ask Usama ibn Zayd, "Have you heard anything from the Messenger of Allah, may Allah bless him and grant him peace, about the plague?" Usama said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'The plague is a punishment that was sent down on a party of the Banu Israil or whoever was before them. When you hear of it in a land, do not enter it. If it comes upon a land and you are in it, do not depart in flight from it.' "

Malik said that Abu'n-Nadr said, "That is, do not depart with no other intention but flight."

Book 45, Number 45.7.24:

Yahya related to me from Malik from Ibn Shihab from Abdullah ibn Amir ibn Rabia that Umar ibn al-Khattab went out to ash-Sham. When he came to Sargh, near Tabuk, he heard that the plague had broken out in ash-Sham. Abd ar-Rahman ibn Awf told him that the Messenger of Allah, may Allah bless him and grant him peace, said, "If you hear that a land has a plague in it, do not go forward to it. If it comes upon a land which you are in, do not depart in flight from it." Umar ibn al-Khattab came back from Sargh.

Book 45, Number 45.7.25:

Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah that Umar ibn al-Khattab turned people back at Sargh according to the hadith of Abd ar-Rahman ibn Awf.

Book 45, Number 45.7.26:

Yahya related to me that Malik said, "I heard that Umar ibn al-Khattab said, 'A night in Rukba (a valley near Taif,) is more preferable to me than ten nights in ash-Sham.'

"

Malik said, "He meant to lengthen and preserve their lives because of the severity of the plague in ash-Sham ."

Translation of Malik's Muwatta, Book 46:

The Decree

Section: The Prohibition against Talking about the Decree

Book 46, Number 46.1.1:

> Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Adam and Musa argued and Adam got the better of Musa. Musa rebuked Adam, 'You are Adam who led people astray and brought them out of the Garden.' Adam said to him, 'You are Musa to whom Allah gave knowledge of everything and whom he chose above people with His message.' He said, 'Yes.' He said, 'Do you then censure me for a matter which was decreed for me before I was created?' "

Book 46, Number 46.1.2:

> Yahya related to me from Malik from Zayd ibn Abi Unaysa that Abd al-Hamid ibn Abd ar-Rahman ibn Zayd ibn al-Khattab informed him from Muslim ibn Yasar al-Juhani that Umar ibn al-Khattab was asked about this ayat - "When your Lord took their progeny from the Banu Adam from their backs and made them testify against themselves. 'Am I not your Lord?' They said, 'Yes, we bear witness'
>
> Lest you should say on the Day of Rising, 'We were heedless of that.'" (Sura 7 ayat 172) Umar ibn al-Khattab said, "I heard the Messenger of Allah, may Allah bless him and grant him peace, being asked about it. The Messenger of Allah, may Allah bless him and grant him peace, said, 'Allah, the Blessed, the Exalted, created Adam. Then He stroked his back with His right hand, and progeny issued from it. He said, "I created these for the Garden and they will act with the behaviour of the people of the Garden." Then He stroked his back again and brought forth progeny from him. He said, "I created these for the Fire and they will act with the behaviour of the people of the Fire." 'A man said, 'Messenger of Allah! Then of what value are deeds?' The Messenger of Allah, may Allah bless him and grant him peace, answered, 'When Allah creates a slave for the Garden, he makes him use the behaviour of the people of the Garden, so that he dies on one of the actions of the people of the Garden and by it He brings him into the Garden. When He creates a slave for the Fire, He makes him use the behaviour of the people of the Fire, so that he dies on one of the actions of the people of the Fire, and by it, He brings him into the Fire.' "

Book 46, Number 46.1.3:

> Yahya related to me from Malik that he heard that the Messenger of Allah, may Allah bless him and grant him peace, said, "I have left two matters with you. As long as you hold to them, you will not go the wrong way. They are the Book of Allah and

the Sunna of His Prophet."

Book 46, Number 46.1.4:

Yahya related to me from Malik from Ziyad ibn Sad from Amr ibn Muslim that Tawus al-Yamani said, "I found some of the companions of the Messenger of Allah, may Allah bless him and grant him peace, saying 'Everything is by decree.' " Tawus added, "I heard Abdullah ibn Umar say that The Messenger of Allah, may Allah bless him and grant him peace. said, 'Everything is by decree - even incapacity and ability,' (or 'ability and incapacity')."

Book 46, Number 46.1.5:

Malik related to me from Ziyad ibn Sad that Amr ibn Dinar said, "I heard Abdullah ibn az-Zubayr say in a khutba, 'Allah - He is the Guider and the One Who Tempts Away.' "

Book 46, Number 46.1.6:

Yahya related to me from Malik that his paternal uncle, Abu Suhayl ibn Malik said, "I was a prisoner with Umar ibn Abd al-Aziz. He said, 'What do you think about these Qadariyya (fatalists)?' I said, 'My opinion is that one should ask them to turn from wrong action, if they will do so. If not, subject them to the sword.' Umar ibn Abd al-Aziz said, 'That is my opinion.

Malik added, "That is my opinion also."

Section: General Section on the People of the Decree

Book 46, Number 46.2.7:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "A woman should not ask for the divorce of her sister to make her plate empty and in order to marry. She has what is decreed for her."

Book 46, Number 46.2.8:

Yahya related to me from Malik from Yazid ibn Ziyad that Muhammad ibn Kab al-Quradhi said, "Muawiya ibn Abi Sufyan said from the mimbar, 'O people! Nothing keeps away what Allah gives and nothing gives what Allah keeps away. The earnestness of the earnest one does not profit him. When Allah desires good for him, he gives him understanding in the deen.' Then Muawiya said, 'I heard these words from the Messenger of Allah, may Allah bless him and grant him peace, on these blocks of wood.' "

Book 46, Number 46.2.9:

Yahya related to me from Malik that he had heard that this was said "Praise be to Allah who created everything as is necessary, who does not hasten anything He defers and determines. Allah is enough for me and sufficient. Allah hears whoever makes dua to him. Allah does not have a goal."

Book 46, Number 46.2.10:

Yahya related to me from Malik that he heard that this was said "No one will die until his provision is completed for him, so behave correctly in your seeking it."

Translation of Malik's Muwatta, Book 47:

Good Character

Section: Good Character

Book 47, Number 47.1.1:

Yahya related to me from Malik that Muadh ibn Jabal said, "The last advice the Messenger of Allah, may Allah bless him and grant him peace, gave me when I put my foot in the stirrup was that he said, 'Make your character good for the people, Muadh ibn Jabal!' "

Book 47, Number 47.1.2:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "The Messenger of Allah, may Allah bless him and grant him peace, did not have to choose between two matters, but that he chose the easier of them as long as it was not a wrong action. If it was a wrong action, he was the furthest of people from it. The Messenger of Allah, may Allah bless him and grant him peace, did not take revenge for himself unless the limits of Allah were violated. Then he took revenge for it for Allah."

Book 47, Number 47.1.3:

Yahya related to me from Malik from Ibn Shihab from Ali ibn Husayn ibn Ali ibn Abi Talib that the Messenger of Allah, may Allah bless him and grant him peace, said, "Part of the excellence of a man's Islam is that he leaves what does not concern him."

Book 47, Number 47.1.4:

Yahya related to me from Malik that he had heard that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "A man asked permission to come in to see the Messenger of Allah, may Allah bless him and grant him peace. I was with him in the house and the Messenger of Allah, may Allah bless him and grant him peace, said, 'He is an evil member of his tribe.' Then the Messenger of Allah, may Allah bless him and grant him peace, gave him permission."

A'isha continued, "It was not long before I heard the Messenger of Allah, may Allah bless him and grant him peace, laughing with him. When the man left, I said, 'Messenger of Allah, you said what you said about him, and then before long you were laughing with him.' The Messenger of Allah, may Allah bless him and grant him peace, replied, 'Among the most evil of people is the one whom people are

cautious with because of his evil.' "

Book 47, Number 47.1.5:

Yahya related to me from Malik from his paternal uncle, Abu Suhayl ibn Malik from his father that Kab al-Ahbar said, "If you want to know what a slave has with his Lord, then look at whatever good praise follows him."

Book 47, Number 47.1.6:

Yahya related to me from Malik that Yahya ibn Said said, "I have heard that by his good character a man can reach the degree of the one who stands in prayer at night and the one who is thirsty from fasting in the heat of the day."

Book 47, Number 47.1.7:

Yahya related to me from Malik that Yahya ibn Said said that he heard Said ibn al-Musayyab say, "Shall I tell you what is better than much prayer and sadaqa?" They said, "Yes." He said, "Mending discord. And beware of hatred - it strips you (of your deen)."

Book 47, Number 47.1.8:

Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, said, "I was sent to perfect good character."

Section: Modesty

Book 47, Number 47.2.9:

Yahya related to me from Malik from Salama ibn Safwan ibn Salama az-Zuraqi that Zayd ibn Talha ibn Rukana, who attributed it to the Prophet, may Allah bless him and grant him peace, said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'Every deen has an innate character. The character of Islam is modesty.' "

Book 47, Number 47.2.10:

Yahya related to me from Malik from Ibn Shihab from Salim ibn Abdullah from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, passed by a man who was chiding his brother about modesty. The Messenger of Allah, may Allah bless him and grant him peace, said, "Leave him. Modesty is part of iman."

Section: Anger

Book 47, Number 47.3.11:

Malik related to me from Ibn Shihab from Humayd ibn Abd ar-Rahman ibn Awf that a man came to the Messenger of Allah, may Allah bless him and grant him peace, and said, "Messenger of Allah, teach me some words which I can live by. Do not make them too much for me, lest I forget." The Messenger of Allah, may Allah bless him and grant him peace, said, "Do not be angry."

Book 47, Number 47.3.12:

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "A strong person is not the person who throws his adversaries to the ground. A strong person is the person who contains himself when he is angry."

Section: Shunning People

Book 47, Number 47.4.13:

Yahya related to me from Malik from Ibn Shihab from Ata ibn Yazid al-Laythi from Abu Ayyub al-Ansari that the Messenger of Allah, may Allah bless him and grant him peace, said, "It is not halal for a muslim to shun his brother for more than three nights, that is they meet, and this one turns away and that one turns away. The better of the two is the one who says the greeting first."

Book 47, Number 47.4.14:

Yahya related to me from Malik from Ibn Shihab from Anas ibn Malik that the Messenger of Allah, may Allah bless him and grant him peace, said, "Do not be angry with each other and do not envy each other and do not turn away from each other, and be slaves of Allah, brothers. It is not halal for a muslim to shun his brother for more than three nights."

Book 47, Number 47.4.15:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Beware of suspicion. Suspicion is the most untrue speech. Do not spy and do not eavesdrop. Do not compete with each other and do not envy each other and do not hate each other and do not shun each other. Be slaves of Allah, brothers."

Book 47, Number 47.4.16:

Yahya related to me from Malik from Ata ibn Abi Muslim that Abdullah al-Khurasani said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'Shake hands and rancour will disappear. Give presents to each other and love each other and enmity will disappear.' "

Book 47, Number 47.4.17:

Yahya related to me from Malik from Suhayl ibn Abi Salih from his father from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "The doors of the Garden are opened on Monday and Thursday. Every muslim slave who does not associate anything with Allah is forgiven except for the man who has enmity between him and his brother. It is said, 'Leave these two until they have made a reconciliation. Leave these two until they have made a reconciliation.' "

Book 47, Number 47.4.18:

Yahya related to me from Malik from Muslim ibn Abi Maryam from Abu Salih as-Samman that Abu Hurayra said, "The actions of people are presented twice each week, on Monday and Thursday. Every trusting slave is forgiven except for a slave who has enmity between him and his brother. It is said, 'Leave these two until they turn in tawba. Leave these two until they turn in tawba.' "

Translation of Malik's Muwatta, Book 48:

Dress

Section: Wearing Clothes for Beautification

Book 48, Number 48.1.1:

> Yahya related to me from Malik from Zayd ibn Aslam that Jabir ibn Abdullah al-Ansari said, "We went out with the Messenger of Allah, may Allah bless him and grant him peace, in the raid on the Banu Ammar tribe." Jabir said, "I was resting under a tree when the Messenger of Allah, may Allah bless him and grant him peace, came. I said, 'Messenger of Allah; come to the shade.' So the Messenger of Allah, may Allah bless him and grant him peace, sat down, and I stood up and went to a sack of ours. I looked in it for something and found a small cucumber and broke it. Then I brought it to the Messenger of Allah, may Allah bless him and grant him peace. He said, 'From where did you get this?' I said, 'We brought it from Madina, Messenger of Allah.' "
>
> Jabir continued, "We had a friend of ours with us whom we used to equip to go out to guard our mounts. I gave him what was necessary and then he turned about to go to the mounts and he was wearing two threadbare cloaks of his. The Messenger of Allah, may Allah bless him and grant him peace, looked at him and said, 'Does he have two garments other than these?' I said, 'Yes, Messenger of Allah. He has two garments in the bag.' I gave them to him. He said, 'Let him go and put them on.' I let him go to put them on. As he turned to go, the Messenger of Allah, may Allah bless him and grant him peace, exclaimed, 'May Allah strike his neck. Isn't that better for him?' He said (taking him literally), 'Messenger of Allah, in the way of Allah.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'In the way of Allah.' " Jabir added, "The man was killed in the way of Allah."

Book 48, Number 48.1.2:

> Yahya related to me from Malik that he heard that Umar ibn al-Khattab said, "I love to look at a Qur'an reader in white garments."

Book 48, Number 48.1.3:

> Yahya related to me from Malik from Ayyub ibn Abi Tamim that Ibn Sirin said, "Umar ibn al-Khattab said, 'Allah has been generous to you, so be generous to yourselves. Let a man wear a combination of his garments.' "

Section: Wearing Dyed Garments and Gold

Book 48, Number 48.2.4:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar wore garments dyed with red earth and dyed with saffron.

Yahya said that he heard Malik say, "I disapprove of youths wearing any gold because I heard that the Messenger of Allah, may Allah bless him and grant him peace, forbade wearing gold rings, and I disapprove of it for males old or young."

Yahya said, "I heard Malik say about men wearing wraps dyed with safflower in their houses and courtyards, 'I do not know that any of that is haram but I prefer other garments than that.' "

Section: Wearing Silk

Book 48, Number 48.3.5:

Malik related to me from Hisham ibn Urwa from his father that A'isha the wife of the Prophet, may Allah bless him and grant him peace, dressed Abdullah ibn az-Zubayr in a shawl of silk which A'isha used to wear.

Section: Clothes Disapproved for Women to Wear

Book 48, Number 48.4.6:

Yahya related to me from Malik from Alqama ibn Abi Alqama that his mother said, "Hafsa bint Abd ar-Rahman visited A'isha, the wife of the Prophet, may Allah bless him and grant him peace, and Hafsa was wearing a long thin head scarf A'isha tore it in two and made a wide one for her."

Book 48, Number 48.4.7:

Yahya related to me from Malik from Muslim ibn Abi Maryam from Abu Salih that Abu Hurayra said, "Women who are naked even though they are wearing clothes, go astray and make others go astray, and they will not enter the Garden and they will not find its scent, and its scent is experienced from as far as the distance travelled in five hundred years."

Book 48, Number 48.4.8:

Yahya related to me from Malik from Yahya ibn Said from Ibn Shihab that the Messenger of Allah, may Allah bless him and grant him peace, stood up in the night and looked at the horizon of the sky. He said, "What treasures has the night opened? What trials have occurred? How many are dressed in this world and will be naked on the Day of Rising. Warn the women in their rooms."

Section: A Man Dragging his Garments

Book 48, Number 48.5.9:

Yahya related to me from Malik from Abdullah ibn Dinar from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "A person who drags his garment in arrogance will not be looked at by Allah on the Day of Rising."

Book 48, Number 48.5.10:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "On the Day of Rising, Allah the Blessed, the Exalted, will not look at a person who drags his lower garment in arrogance."

Book 48, Number 48.5.11:

Yahya related to me from Malik from Nafi and Abdullah ibn Dinar and Zayd ibn Aslam that all of them informed him from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "On the Day of Rising, Allah will not look at a person who drags his garment in arrogance."

Book 48, Number 48.5.12:

Yahya related to me from Malik from al Ala ibn Abd ar-Rahman that his father said, "I asked Abu Said al-Khudri about the lower garment. He said that he would inform me with knowledge and that he had heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'The lower garment of the mumin should reach to the middle of his calves. There is no harm in what is between that and the ankles. What is lower than that is in the Fire. What is lower than that is in the Fire. On the Day of Rising, Allah will not look at a person who trails his lower garment in arrogance.' "

Section: A Woman Dragging her Garments

Book 48, Number 48.6.13:

Yahya related to me from Malik from Abu Bakr ibn Nafi from his father Nafi, the mawla of Ibn Umar that Safiyya bint Abi Ubayd informed him that Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, said that when the lower garment of women was mentioned to the Messenger of Allah, he said, "She lets it down a handspan." Umm Salama said, "If it leaves her uncovered?" He said, "Then the length of a forearm and let her not increase it."

Section: Wearing Sandals

Book 48, Number 48.7.14:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Do not wear one sandal. Wear both of them or go with both feet bare."

Book 48, Number 48.7.15:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you put on sandals, begin with the right foot. When you take them off, begin with the left foot. The right foot is the first to be put in the sandal and the last to be taken out."

Book 48, Number 48.7.16:

Yahya related to me from Malik from his paternal uncle Abu Suhayl ibn Malik from his father that Kab al-Ahbar said to a man who took off his sandals, "Why have you taken off your sandals? Perhaps you have interpreted this ayat, 'Remove your sandals. You are in the pure valley of Tuwa?' (Sura 20 ayat 12) Do you know what the sandals of Musa were?"

Malik (the father of Abu Suhayl) said, "I do not know what the man answered." Kab said, "They were made from the skin of a dead donkey."

Section: Ways of Dressing

Book 48, Number 48.8.17:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj that Abu Hurayra said, "The Messenger of Allah, may Allah bless him and grant him peace, forbade two sales. Mulamasa, in which a man is obliged to buy whatever he touches without any choice in the matter, and munabadha, in which two men throw their garment to each other without either seeing the other's garment. He also forbade two ways of dressing. One in which a man sits with his legs drawn up to his chest wrapped in one garment that does not cover his genitals, and the other in which a man wraps a single garment over one arm and shoulder restricting them."

Book 48, Number 48.8.18:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that Umar ibn al-Khattab saw a silk robe at the door of the mosque. He said, "Messenger of Allah, would you buy this robe and wear it on jumua and when envoys come to you?" The Messenger of Allah, may Allah bless him and grant him peace, said, "Only a person who has no portion in the next world wears this." Then the Messenger of Allah, may Allah bless him and grant him peace, was brought some robes of the same material and gave Umar ibn al-Khattab one of the robes. Umar said, "Messenger of Allah, do you clothe me in it when you said what you said about the robe of Utarid?" The Messenger of Allah, may Allah bless him and grant him peace, said, "I did not give it to you to wear." Umar gave it to a brother of his in Makka who was still an idolater.

Book 48, Number 48.8.19:

Yahya related to me from Malik that Ishaq ibn Abdullah ibn Abi Talha said, "Anas ibn Malik said, 'I saw Umar ibn al-Khattab when he was the amir of Madina. Three patches were sewn between his shoulders, one patched over the other.' "

Translation of Malik's Muwatta, Book 49:

The Description of the Prophet, may Allah Bless Him and Grant Him Peace

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Section: Description of the Prophet, may Allah Bless Him and Grant Him Peace

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Book 49, Number 49.1.1:

> Yahya related to me from Malik that Rabia ibn Abi Abd ar-Rahman heard Anas ibn Malik say, "The Messenger of Allah, may Allah bless him and grant him peace, was not excessively tall or short. He was not very pallid nor dark. He did not have curly hair or lank hair. Allah commissioned him at the age of forty. He stayed in Makka ten years and at Madina for ten years and Allah the Mighty, the Majestic made him die when he was sixty. There were not twenty white hairs in his hair or beard, may Allah bless him and grant him peace."

Section: Description of Isa ibn Maryam, Peace be upon Him and the Dajjal

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Book 49, Number 49.2.2:

> Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "I dreamt at night that I was at the Kaba, and I saw a dark man like the most handsome of dark men you have ever seen. He had hair reaching to between his ears and his shoulders like the most excellent of such hair that you have seen. He had combed his hair, and water was dripping from it. He was leaning on two men or on the shoulders of two men doing tawaf around Kaba. I asked, 'Who is this?' It was said, 'al-Masih ibn Maryam.' Then we were with a man with wiry hair and blind in his right eye, as if it was a floating grape. I asked 'Who is this?' It was said to me, 'This is al-Masih ad-Dajjal.' "

Section: Sunna of the Fitra

Book 49, Number 49.3.3:

> Yahya related to me from Malik from Said ibn Abi Said al-Maqburi from his father that Abu Hurayra said, "There are five things from the fitra: cutting the nails, trimming the moustache, removing the hair from the armpit, shaving the pubic region and circumcision."

Book 49, Number 49.3.4:

Yahya related to me from Malik from Yahya ibn Said that Said ibn al-Musayyub said, "Ibrahim, may Allah bless him and grant him peace, was the first to give hospitality to the guest and the first person to be circumcised and the first person to trim the moustache and the first person to see grey hair. He said, 'O Lord! What is this?' Allah the Blessed, the Exalted, said, 'It is dignity, Ibrahim.' He said, 'Lord, increase me in dignity!' "

Yahya said that he had heard Malik say, "One takes from the moustache until the edge of the lip appears, that is the rim. One does not cut if off completely so that one mutilates oneself."

Section: Prohibition against Eating with the Left Hand

Book 49, Number 49.4.5:

Yahya related to me from Malik from Abu'z-Zubayr from Jabir ibn Abdullah as-Salami that the Messenger of Allah, may Allah bless him and grant him peace, forbade a man to eat with his left hand or walk in one sandal or wrap a single garment around his drawn-up legs exposing his genitals.

Book 49, Number 49.4.6:

Yahya related to me from Malik from Ibn Shihab from Abu Bakr ibn Ubaydullah ibn Abdullah ibn Umar from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you eat, eat with your right hand and drink with your right hand. Shaytan eats with his left hand and drinks with his left hand."

Section: The Very Poor

Book 49, Number 49.5.7:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "The very poor are not the people who constantly walk from person to person and are given one or two morsels, and one or two dates." They said, "Who are the very poor, Messenger of Allah?" He said, "People who do not find enough for themselves and other people are not aware of them to give sadaqa to them, and they do not start begging from other people."

Book 49, Number 49.5.8:

Yahya related to me from Malik from Zayd ibn Aslam from Ibn Bujayd (formerly al-Ansari) from his grandmother that the Messenger of Allah, may Allah bless him and grant him peace, said, "Give to the very poor, if only a roasted hoof."

Section: The Intestines of the Kafir

Book 49, Number 49.6.9:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj that Abu Hurayra said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'The muslim eats in one intestine, and the kafir eats in seven!' "

Book 49, Number 49.6.10:

Yahya related to me from Malik from Suhayl ibn Abi Salih from his father from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, gave hospitality to a kafir guest. The Messenger of Allah, may Allah bless him and grant him peace, ordered a sheep to be brought for him and it was milked. He drank its milk. Then another came, and he drank it. Then another came and he drank it until he had drunk the milk of seven sheep. In the morning he became muslim, and the Messenger of Allah, may Allah bless him and grant him peace, ordered a sheep for him. It was milked and he drank its milk. Then he ordered another for him and he could not finish it. The Messenger of Allah, may Allah bless him and grant him peace, said, "The mumin drinks in one intestine, and the kafir drinks in seven intestines."

Section: Prohibition against Drinking from Silver Vessels and Blowing into Drinks

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Book 49, Number 49.7.11:

Yahya related to me from Malik from Nafi from Zayd ibn Abdullah ibn Umar ibn al-Khattab from Abdullah ibn Abd ar-Rahman ibn Abi Bakras-Siddiq from Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, that the Messenger of Allah, may Allah bless him and grant him peace, said, "A person who drinks from a silver vessel brings the fire of Jahannam into his belly."

Book 49, Number 49.7.12:

Yahya related to me from Malik from Ayyub ibn Habib, the mawla of Sad ibn Abi Waqqas that Abu'l-Muthanna al-Juhani said, "I was with Marwan ibn al-Hakam and Abu Said al-Khudri came to him. Marwan ibn al-Hakam said to him, 'Have you heard that the Messenger of Allah, may Allah bless him and grant him peace, forbade blowing into drinks?' Abu Said said to him, 'Yes.' A man said to him, 'Messenger of Allah, I am not quenched from one breath.' The Messenger of Allah, may Allah bless him and grant him peace, said to him, 'Remove the cup from your mouth and then breathe.' He said, 'Sometimes I see something floating in it?' He said, 'Then pour it out.'"

Section: Drinking while Standing

Book 49, Number 49.8.13:

Yahya related to me from Malik that he had heard that Umar ibn al-Khattab and Ali

ibn Abi Talib and Uthman ibn Affan drank while standing.

Book 49, Number 49.8.14:

Yahya related to me from Malik from Ibn Shihab that A'isha, umm al-muminin and Sad ibn Abi Waqqas did not see any harm in a man drinking while standing.

Book 49, Number 49.8.15:

Yahya related to me from Malik that Abu Jafar al-Qari said, "I saw Abdullah ibn Umar drink while standing."

Book 49, Number 49.8.16:

Yahya related to me from Malik from Amir ibn Abdullah ibn az-Zubayr that his father used to drink while standing.

Section: The Sunna about Drinking and Passing to the Right

Book 49, Number 49.9.17:

Yahya related to me from Malik from Ibn Shihab from Anas ibn Malik that the Messenger of Allah, may Allah bless him and grant him peace, was brought some milk which was mixed with well-water. There was a Bedouin at his right side and Abu Bakr as-Siddiq on his left. He drank and then gave it to the Bedouin and said, "The right-hand to the right-hand."

Book 49, Number 49.9.18:

Yahya related to me from Malik from Abu Hazim ibn Dinar from Sahl ibn Sad al-Ansari that the Messenger of Allah, may Allah bless him and grant him peace, was brought a drink and he drank some of it. There was a boy at his right and some old men on his left. He said to the boy, "Will you give me permission to give it to these people?" The boy said, "No, Messenger of Allah, I will not prefer anyone to get my portion from you." He said, "So the Messenger of Allah, may Allah bless him and grant him peace, placed it in his hand."

Section: General Section on Food and Drink

Book 49, Number 49.10.19:

Yahya related to me from Malik that Ishaq ibn Abdullah ibn Abi Talha heard Anas ibn Malik say that Abu Talha had said to Umm Sulaym, "I have just been listening to the Messenger of Allah, may Allah bless him and grant him peace, and his voice was very weak. I recognised hunger in it, so, do you have anything?" She replied, "Yes," and brought out some barley loaves. She took her long head scarf and wrapped up the bread with part of it and put it into my (Anas's) hand and gave me part of it to wear. Then she sent me to the Messenger of Allah, may Allah bless him and grant

him peace."

Anas continued, "I took it, and I found the Messenger of Allah, may Allah bless him and grant him peace, sitting in the mosque with some people. I watched them. The Messenger of Allah, may Allah bless him and grant him peace, said, 'Did Abu Talha send you?' I replied, 'Yes.' He said, 'For food?' I said, 'Yes.' The Messenger of Allah, may Allah bless him and grant him peace, said to those with him, 'Let us go.' He set off and I went among them until I came to Abu Talha and told him. Abu Talha said, 'Umm Sulaym! The Messenger of Allah, may Allah bless him and grant him peace, has brought people and we have no food. What shall we give them to eat?' She said, 'Allah and His Messenger know best.' "

Anas continued, "Abu Talha went out and met the Messenger of Allah, may Allah bless him and grant him peace, and the Messenger of Allah, may Allah bless him and grant him peace, approached with Abu Talha until they entered. The Messenger of Allah, may Allah bless him and grant him peace, said, 'Come now, Umm Sulaym, what have you got?' She brought out bread. The Messenger of Allah, may Allah bless him and grant him peace, ordered it to be broken into pieces, and Umm Sulaym squeezed out onto it a container of clarified butter which she had seasoned. Then the Messenger of Allah, may Allah bless him and grant him peace, said whatever Allah wished him to say, and said, 'Will you give permission for ten of them to come in?' He gave them permission, and they ate until they were full and then left. He said, 'Give permission to ten more.' He gave them permission, and they ate until they were full and left. Then he said, 'Give permission to ten more.' He gave them permission and they ate until they were full and left. Then he said, 'Give permission to ten more.' He gave permission and they ate until they were full and left. There were seventy or eighty men."

Book 49, Number 49.10.20:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "The food of two is enough for three, and the food of three is enough for four."

Book 49, Number 49.10.21:

Yahya related to me from Malik from Abu'z-Zubayr al-Makki from Jabir ibn Abdullah that the Messenger of Allah, may Allah bless him and grant him peace, said, "Lock the door, tie the waterskin, turn the vessel over or cover it, and put out the lamp. Shaytan does not open a locked door or untie a tied knot, or uncover a vessel. A mouse may set fire to people's houses about them."

Book 49, Number 49.10.22:

Yahya related to me from Malik from Said ibn Abi Said al-Maqburi from Abu Shurayh al-Kabi that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever believes in Allah and the Last Day should speak good or be silent. Whoever believes in Allah and the Last Day should be generous to his neighbour. Whoever believes in Allah and the Last Day, should be generous to his

guest. His welcome is for a day and a night, and his hospitality is for three days. Whatever is more than that is sadaqa. It is not halal for a guest to stay with a man until he becomes a burden."

Book 49, Number 49.10.23:

Yahya related to me from Malik from Sumayy, the mawla of Abu Bakr from Abu Salih as-Samman from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "A man was walking on a road when he became very thirsty. He found a well and went into it and drank and came out. There was a dog panting and eating earth out of thirst. The man said, 'This dog has become as thirsty as I was.' He went down into the well and filled his shoe and then held it in his mouth until he climbed out and gave the dog water to drink. Allah thanked him for it and forgave him." They said, "Messenger of Allah, do we have a reward for taking care of beasts?" He said, "There is a reward for every one with a moist liver."

Book 49, Number 49.10.24:

Yahya related to me from Malik from Wahb ibn Kaysan that Jabir ibn Abdullah said, "The Messenger of Allah, may Allah bless him and grant him peace, sent a delegation to the coast. Abu Ubayda ibn al-Jarrah was in command of them. There were 300 people and I was among them. We went out until we had gone part of the way and our provisions were finished. Abu Ubayda ordered that the provisions of the army be gathered up and they amounted to two containers of dates. He used to give us a little provision from it each day until it was finished, and we used to have only a single date each. I said, 'What use is one date?' He said, 'We will certainly feel its loss when they are finished.' "

Jabir continued, "Then we reached the sea and there was a fish like a small mountain. The army ate from it for eighteen nights. Then Abu Ubayda ordered two ribs from it to be set up. Then he commanded that a camel be ridden underneath them and it did not touch them."

Book 49, Number 49.10.25:

Yahya related to me from Malik from Zayd ibn Aslam from Amr ibn Sad ibn Muadh from his grandmother that the Messenger of Allah, may Allah bless him and grant him peace, said, "O trusting women, none of you must consider even a roasted sheep's trotter too small to give to her neighbour."

Book 49, Number 49.10.26:

Yahya related to me from Malik that Abdullah ibn Abi Bakr said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'May Allah curse the jews! They were forbidden to eat fat, so they sold it and ate its price.' "

Book 49, Number 49.10.27:

Yahya related to me from Malik that he had heard that Isa ibn Maryam used to say, "O Banu Israil! You must drink pure water and the green things of the land and barley bread . Beware of wheat bread, for you will not be grateful enough for it."

Book 49, Number 49.10.28:

Yahya related to me from Malik that he heard that the Messenger of Allah, may Allah bless him and grant him peace, entered the mosque and found Abu Bakr as-Siddiq and Umar ibn al-Khattab there. He questioned them and they said, "Hunger has driven us out." The Messenger of Allah, may Allah bless him and grant him peace, said, "And hunger has brought me out." They went to Abu'l-Haytham ibn at-Tayyihan al-Ansari. He ordered that some barley that was in the house be prepared and he got up to slaughter a sheep for them. The Messenger of Allah, may Allah bless him and grant him peace, said, "Leave the one with milk." He slaughtered a sheep for them and brought them sweet water and it was hung on a palm-tree. Then they were brought the food and ate it and drank the water. The Messenger of Allah, may Allah bless him and grant him peace, recited, "Then, on that day, you will be asked concerning pleasure." (Sura 102 ayat 8).

Book 49, Number 49.10.29:

Yahya related to me from Malik from Yahya ibn Said that Umar ibn al-Khattab was eating bread with ghee. He summoned one of the desert people and he began to eat and follow the grease in the dish with a morsel of bread. Umar said, "It is as if you were poor." He said, "By Allah. I have not eaten ghee nor have I seen food with it since such-and-such a time." Umar declared, "I shall not eat clarified butter until people are given life again like they were first given life," (i.e. on the Day of Rising.)

Book 49, Number 49.10.30:

Yahya related to me from Malik from Ishaq ibn Abdullah ibn Abi Talha that Anas ibn Malik said, "I saw Umar ibn al-Khattab when he was amir al-muminin being given a sa of dates, and he ate all of them, even the inferior ones."

Yahya related to me from Malik from Abdullah ibn Dinar that Abdullah ibn Umar said, "Umar ibn al-Khattab was asked about locusts. He said, 'I would like to have a basket of them, from which we could eat.' "

Book 49, Number 49.10.31:

Yahya related to me from Malik from Muhammad ibn Amr ibn Halhala that Humayd ibn Malik ibn Khu'haym said, "I was sitting with Abu Hurayra on his land at al-Aqiq. Some people rode out from Madina to call upon Abu Hurayra. He told me to go to his mother, sending his greetings and asking her to prepare some food." Humayd continued, "She set down three loaves on a plate and some oil and salt. Then she put it on my head and I carried it to them. When I set it before them, Abu Hurayra said, 'Allah is greater' and added, 'Praise be to Allah who has filled us with bread after our food had previously been only water and dates,' as the people did not touch any of

the food.

When they left, he said, 'O son of my brother, be good to your sheep and wipe the mucus from them and clean their pen. Pray in their quarter for they are among the animals of the Garden. By He in Whose Hand my self is, a time is about to come upon people when a small group of sheep will be more beloved to their owner than the house of Marwan . ' "

Book 49, Number 49.10.32:

Yahya related to me from Malik from Abu Nuaym that Wahb ibn Kaysan said, "The Messenger of Allah, may Allah bless him and grant him peace, was brought food while his stepson Umar ibn Salama was with him. The Messenger of Allah, may Allah bless him and grant him peace, said to him, 'Say "Bismillah," and eat what is in front of you.' "

Book 49, Number 49.10.33:

Yahya related to me from Malik that Yahya ibn Said said that he had heard al-Qasim ibn Muhammad say that a man came to Abdullah ibn Abbas and said to him, "I have an orphan and he has camels. Can I drink from the camels' milk?" Ibn Abbas said, "If you search for the lost camels of his and treat the camels' mange and fill in the cracks in their water basin and give it water on the day it drinks, then drink it without doing harm to the suckling camels by milking them excessively."

Book 49, Number 49.10.34:

Yahya related to me from Malik from Hisham ibn Urwa that his father never brought food or drink, nor even a remedy which he ate or drank but that he said, "Praise be to Allah who has guided us and fed us and given us to drink and blessed us. Allah is greater. O Allah! We have found Your blessing with every evil, give us every good in the morning and evening. We ask You for its completion and its gratitude. There is no good except Your good. There is no god other than You, the God of the salihun and the Lord of the Worlds. Praise be to Allah. There is no god but Allah. What Allah wills. There is no power except in Allah. O Allah! Bless us in what You have provided us with and protect us from the punishment of the Fire!"

Al-hamdu lillahi-lladhi hadana wa at amana wa saqana wa naamana. Allahu akbar. Allahumma'l fatna nimatik bi-kulli sharr. Fa asbahna minha wa amsayna bi-kulli khayr. Nasaluka tamamaha wa shukraha. La khayr illa khayruk. Wa la ilaha ghayruk. Ilaha'-saliheen wa rabba'l-alameen. Al-hamdu lillah. Wa la ilaha illa'llah. Ma sha'Allah. Wa la quwwata illa billah. Allahumma barik lana fima razaqtana. Waqina adhaba'n-nar.

Book 49, Number 49.10.35:

Yahya said that Malik was asked, "Can a woman eat with other than her relative or slave?" Malik said, "There is no harm in that if it is in a manner which is accepted for a woman to eat with men."

Malik said, "A woman sometimes eats with her husband and with others he dines with or with her brother in the same way. It is disapproved of for a woman to be alone with a man when there is no relationship between them by blood, marriage or suckling that would prevent him marrying her."

Book 49, Number 49.10.36:

Yahya related to me from Malik from Yahya ibn Said that Umar ibn al-Khattab said, "Beware of meat. It has addictiveness like the addictiveness of wine."

Yahya related to me from Malik from Yahya ibn Said that Umar ibn al-Khattab saw Jabir ibn Abdullah carrying some meat. He said, "What is this?" He said, "Amir al-muminin. We desired meat and I bought some meat for a dirham." Umar said, "Does one of you want to fill his belly apart from his neighbour or nephew? How can you overlook this ayat? 'You squandered your good things in the life of this world and sought comfort in them.' " (Sura 46 ayat 20).

Section: Wearing Rings

Book 49, Number 49.11.37:

Yahya related to me from Malik from Abdullah ibn Dinar from 'Abdullah ibn 'Umar that the Messenger of Allah, may Allah bless him and grant him peace, used to wear a gold ring. Then the Messenger of Allah, may Allah bless him and grant him peace, stood up and threw it away and said, "I will never wear it." He said, "So the people threw away their rings."

Book 49, Number 49.11.38:

Yahya related to me from Malik that Sadaqa ibn Yasar said, "I asked Said ibn al-Musayyab about wearing a ring. He said, 'Wear it, and tell people that I gave you that decision.' "

Section: Pulling off Necklaces and Bells from the Necks of Camels

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Book 49, Number 49.12.39:

Yahya related to me from Malik from Abdullah ibn Abi Bakr from Abbad ibn Tamim that Abu Bashir al-Ansari told him that he was with the Messenger of Allah, may Allah bless him and grant him peace, on one of his journeys. He related, "The Messenger of Allah, may Allah bless him and grant him peace, sent a messenger." (Abdullah ibn Abi Bakr said, (I think that he said it was while the people were in their resting place.) He said, "Do not let a single-string necklace, or any necklace, remain unbroken on the neck of a camel."

Yahya said, "I heard Malik say, 'I think that was because of the evil eye.' "

Translation of Malik's Muwatta, Book 50:

The Evil Eye

Section: Wudu from the Evil Eye

Book 50, Number 50.1.1:

> Yahya related to me from Malik that Muhammad ibn Abi Umama ibn Sahl ibn Hunayf heard his father say, "My father, Sahl ibn Hunayf did a ghusl at al-Kharrar. He removed the jubbah he had on while Amir ibn Rabia was watching, and Sahl was a man with beautiful white skin. Amir said to him, 'I have never seen anything like what I have seen today, not even the skin of a virgin.' Sahl fell ill on the spot, and his condition grew worse. Somebody went to the Messenger of Allah, may Allah bless him and grant him peace, and told him that Sahl was ill, and could not go with him. The Messenger of Allah, may Allah bless him and grant him peace, came to him, and Sahl told him what had happened with Amir. The Messenger of Allah, may Allah bless him and grant him peace, said, 'Why does one of you kill his brother? Why did you not say, "May Allah bless you?" (ta baraka-llah) The evil eye is true. Do wudu from it.' Amir did wudu from it and Sahl went with the Messenger of Allah, may Allah bless him and grant him peace, and there was nothing wrong with him."

Book 50, Number 50.1.2:

> Malik related to me from Ibn Shihab that Abu Umama ibn Sahl ibn Hunayf said, "Amir ibn Rabia saw Sahl ibn Hunayf doing a ghusl and said, 'I have not seen the like of what I see today, not even the skin of a maiden who has never been out of doors.' Sahl fell to the ground. The Messenger of Allah, may Allah bless him and grant him peace, was approached and it was said, 'Messenger of Allah, can you do anything about Sahl ibn Hunayf? By Allah, he can not raise his head.' He said, 'Do you suspect anyone of it?' They said, 'We suspect Amir ibn Rabia.' "
>
> He continued, "The Messenger of Allah, may Allah bless him and grant him peace, summoned Amir and was furious with him and said, 'Why does one of you kill his brother? Why did you not say, "May Allah bless you?" Do ghusl for it.' Amir washed his face, hands, elbows, knees, the end of his feet, and inside his lower garment in a vessel. Then he poured it over him, and Sahl went off with the people, and there was nothing wrong with him."

Section: Guarding from the Evil Eye

Book 50, Number 50.2.3:

> Yahya related to me from Malik that Humayd ibn Qays al-Makki said, "A man came to the Messenger of Allah, may Allah bless him and grant him peace, with the two

sons of Jafar ibn Abi Talib. He said to their nursemaid, 'Why do I see them so thin?' Their nursemaid said, 'Messenger of Allah, the evil eye goes quickly to them. Nothing stops us from asking someone to make talismans (using ayats of Qur'an) for them, except that we do not know what of that would agree with you.' The Messenger of ,Allah, may Allah bless him and grant him peace, said, 'Make talismans for them. Had anything been able to precede the decree, the evil eye would precede it.' "

Book 50, Number 50.2.4:

Yahya related to me from Malik from Yahya ibn Said from Sulayman ibn Yasar that Urwa ibn az-Zubayr told him that the Messenger of Allah, may Allah bless him and grant him peace, entered the house of Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace. There was a child weeping in the house, and they told him that it was from the evil eye. Urwa said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'Why do you not find someone to make a talisman to protect it from the evil eye?' "

Section: The Reward of the Invalid

Book 50, Number 50.3.5:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, said, "When the slave is ill, Allah ta'ala sends two angels to him." He said, "They look at what he says to his visitors. If he praises Allah and lauds Him, when they come to him, they take that up to Allah, the Mighty, the Majestic, and He knows best, and He says, 'If I make my slave die, I will make him enter the Garden. If I heal him, I will replace his flesh with better flesh and his blood with better blood and I will efface his evil actions.'"

Book 50, Number 50.3.6:

Yahya related to me from Malik from Yazid ibn Khusayfa that Urwa ibn az-Zubayr said that he heard A'isha, the wife of the Prophet, may Allah bless him and grant him peace, say, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'When a mumin is afflicted by something, even a thorn, it removes (or effaces) his wrong actions.' " Yazid did not know which of them Urwa said.

Book 50, Number 50.3.7:

Yahya related to me from Malik that Muhammad ibn Abdullah ibn Abi Sasaca said that he heard Abu'l-Hubab Said ibn Yasar say that he had heard Abu Hurayra say, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'Allah afflicts the one for whom He desires good.'"

Book 50, Number 50.3.8:

Yahya related to me from Malik from Yahya ibn Said that death came to a man in

the time of the Messenger of Allah, may Allah bless him and grant him peace. A man said, "He was fortunate," as he had died without being tried by illness. The Messenger of Allah, may Allah bless him and grant him peace, said, "Alas for you, what will let you know that if Allah had tried him with illness, He would have wiped out his wrong actions."

Section: Seeking Refuge and Talismans in Illness

Book 50, Number 50.4.9:

Yahya related to me from Malik from Yazid ibn Khusayfa that Amr ibn Abdullah ibn Kab as-Salami told him that Nafi ibn Jubayr told him that Uthman ibn Abi al-As came to the Messenger of Allah, may Allah bless him and grant him peace. Uthman said that he had a pain which was enough to kill him. The Messenger of Allah, may Allah bless him and grant him peace, said, "Rub it with your right hand seven times and say, 'I take refuge with the might of Allah and His power from the evil of what I feel.' "

Uthman added, "I said that, and Allah removed what I had. I still command my family and others to say it."

Book 50, Number 50.4.10:

Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-Zubayr from A'isha that the Messenger of Allah, may Allah bless him and grant him peace, when he had a complaint, would recite the last three suras of Qur'an, over himself and blow. She said, "When his pain was great, I would recite it over him and wipe him with his right hand hoping for its blessing."

Book 50, Number 50.4.11:

Yahya related to me from Malik from Yahya ibn Said from Amra bint Abd ar-Rahman that Abu Bakr as-Siddiq visited A'isha while she had a complaint and a jewish woman was writing a talisman for her. Abu Bakr said, "Write it for her from the Book of Allah."

Section: Treating the Invalid

Book 50, Number 50.5.12:

Yahya related to me from Malik from Zayd ibn Aslam that a man received a wound in the time of the Messenger of Allah, may Allah bless him and grant him peace. The blood clotted in the wound and the man called two men from the Banu Ammar tribe. They looked at it and claimed that the Messenger of Allah, may Allah bless him and grant him peace, said to them, "Which of you is the better doctor?" They said, "Is there any good in medicine, Messenger of Allah?" Zayd claimed that the Messenger of Allah, may Allah bless him and grant him peace, said, "The one who sent down the disease sent down the remedy."

Book 50, Number 50.5.13:

Yahya related to me from Malik that Yahya ibn Said said, "I heard that Sad ibn Zurara cauterized himself because of a pain in the throat accompanied by blood and he died."

Book 50, Number 50.5.14:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar cauterized for the palsy and he had a talisman made for a scorpion sting.

Section: Washing with Water for a Fever

Book 50, Number 50.6.15:

Yahya related to me from Malik from Hisham ibn Urwa from Fatima bint al-Mundhir that whenever a woman who had a fever, was brought to Asma bint Abi Bakr, she made dua for her and took water and poured it inside her collar. She said, "The Messenger of Allah, may Allah bless him and grant him peace, ordered us to cool it with water."

Book 50, Number 50.6.16:

Yahya related to me from Malik from Hisham ibn Urwa from his father that the Messenger of Allah, may Allah bless him and grant him peace, said, "Fever is from the vehemence of the heat of Jahannam, so cool it with water."

Malik related to me from Nafi from Ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Fever is from the vehemence of the heat of Jahannam, so put it out with water."

Section: Visiting the Invalid and the Evil Omen

Book 50, Number 50.7.17:

Yahya related to me from Malik that he had heard from Jabir ibn Abdullah that the Messenger of Allah, may Allah bless him and grant him peace, said, "When a man visits an invalid, he plunges into mercy to the extent that when he sits with him, it settles in him," or the like of that.

Book 50, Number 50.7.18:

Yahya related to me from Malik that he had heard from Bukayr ibn Abdullah ibn al-Ashajj from Ibn Atiya that the Messenger of Allah, may Allah bless him and grant him peace, said, "There is no contagion, no hama and no serpent in a hungry belly. However, the possessor of sick livestock must not stop at the same place as the possessor of healthy livestock, but the possessor of healthy livestock may stop wherever he wishes."

They said, "Messenger of Allah, Why is that?" The Messenger of Allah, may Allah bless him and grant him peace, said, "It is harmful."

Translation of Malik's Muwatta, Book 51:

Hair

Section: The Sunna on Hair

Book 51, Number 51.1.1:

Yahya related to me from Malik from Abu Bakr ibn Nafi from his father Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, ordered the moustache to be trimmed and the beard to be left.

Book 51, Number 51.1.2:

Yahya related to me from Malik from Ibn Shihab that Humay ibn Abd ar-Rahman ibn Awf heard Muawiya ibn Abi Sufyan say from the mimbar in the year that he performed the hajj, holding a lock of hair (i.e. a hairpiece) which he took from one of his guards, "People of Madina! Where are your learned men? I heard the Messenger of Allah, may Allah bless him and grant him peace, forbid the like of this, saying, 'The Banu Israil were destroyed when their women started to use this.' "

Book 51, Number 51.1.3:

Yahya related to me from Malik that Ziyad ibn Sad heard Ibn Shihab say, "The Messenger of Allah, may Allah bless him and grant him peace, let his hair hang down his forehead as Allah willed, and afterwards he parted it."

Malik said, "There is no harm in a man's looking at the hair of his son's wife or the hair of his wife's mother."

Book 51, Number 51.1.4:

Yahya related to me from Malik from Nafi that Abdullah ibn Umar disapproved of castration and said, "The completeness of the created form is in the testicles."

Book 51, Number 51.1.5:

Yahya related to me from Malik that Safwan ibn Sulaym heard that the Prophet, may Allah bless him and grant him peace, said, "I and the one who guards the orphan, whether for himself or for someone else, will be like these two in the Garden, when he has taqwa," indicating his middle and index fingers.

Section: Caring for the Hair

Book 51, Number 51.2.6:

Yahya related to me from Malik from Yahya ibn Said that Abu Qatada al-Ansari said to the Messenger of Allah, may Allah bless him and grant him peace, "I have a lot of hair which comes down to my shoulders, shall I comb it?" The Messenger of Allah. may Allah bless him and grant him peace, said, "Yes, and honour it." Sometimes Abu Qatada oiled it twice in one day because the Messenger of Allah, may Allah bless him and grant him peace, said to him. "Honour it."

Book 51, Number 51.2.7:

Yahya related to me from Malik from Zayd ibn Aslam that Ata ibn Yasar told him that the Messenger of Allah, may Allah bless him and grant him peace, was in the mosque when a man came in with dishevelled hair and beard. The Messenger of Allah. may Allah bless him and grant him peace, motioned with his hand that he should be sent out to groom his hair and beard. The man did so and then returned. The Messenger of Allah, may Allah bless him and grant him peace, said, "Isn't this better than that one of you should come with his head dishevelled, as if he were a shaytan?"

Section: Dyeing the Hair

Book 51, Number 51.3.8:

Yahya related to me from Malik that Yahya ibn Said said that Muhammad ibn Ibrahim at-Taymi had informed him that Abu Salama ibn Abd ar-Rahman said "Abd ar-Rahman ibn al-Aswad ibn Abdal-Yaghuth used to sit with us and he had a white beard and hair. One day he came to us and he had dyed them red, and the people said to him, 'This is better.' He said. 'A'isha the wife of the Prophet, may Allah bless him and grant him peace, sent her slave girl Nukhayla to me yesterday. She swore that my hair would be dyed and she informed me that Abu Bakr as-Siddiq used to dye his hair.' "

Yahya said that he heard Malik say about dyeing the hair black, 'I have not heard anything certain on that, and other colours than that are preferable to me."

Yahya said, "Not to dye at all is permitted, Allah willing, and there is no constraint on people concerning it."

Yahya said that he had heard Malik say, "There is no clear indication in this hadith that the Messenger of Allah, may Allah bless him and grant him peace, did not dye his hair. Had the Messenger of Allah, may Allah bless him and grant him peace, dyed his hair, A'isha would have sent a message to that effect to Abd ar-Rahman ibn al-Aswad."

Section: Taking Refuge

Book 51, Number 51.4.9:

Yahya related to me from Malik that Yahya ibn Said said that he had heard that Khalid ibn al-Walid said to the Messenger of Allah, may Allah bless him and grant him peace, "I have nightmares." The Messenger of Allah, may Allah bless him and grant him peace, said to him, "Say, 'I seek refuge with the complete words of Allah from His anger and His punishment and the evil of His slaves, and from the evil suggestions of the shayatin and from their being present (at death).' "

Audhu bi kalimati' llahi't-tammati min ghadabihi wa iqabihi wa sharri ibadihi wa min hamazati' sh-shayatin wa an yahdurun.

Book 51, Number 51.4.10:

Yahya related to me from Malik that Yahya ibn Said said, "When the Messenger of Allah, may Allah bless him and grant him peace, was taken on the Night Journey, he saw an evil jinn seeking him with a torch of fire. Whenever the Messenger of Allah, may Allah bless him and grant him peace, turned, he saw him. Jibril said to him, 'Shall I teach you some words to say? When you say them, his torch will be put out and will fall from him.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'Yes, indeed.' Jibril said, 'Say, 'I seek refuge with the Noble Face of Allah and with the complete words of Allah which neither the good person nor the corrupt can exceed, from the evil of what descends from the sky and the evil of what ascends in it, and from the evil of what is created in the earth and the evil of what comes out of it, and from the trials of the night and day, and from the visitations of the night and day, except for one that knocks with good, O Merciful!" "'

Audhu bi wajhi'llahi' l-karim wa bi kalimati'llahi't-tammati. Allati la yujawazu hunna barra wa la fajir, min sharri ma yanzil min as-sama, wa sharri ma yaruju fiha, wa sham ma dhara' fi'l-ard, wa sharri ma yakhruju minha, wa min fitani'l-layli wa'n-nahar, wa min tawariqi'l-layli wa'n-nahar illa tariqan yatruq bikhayr ya Rahman!

Book 51, Number 51.4.11:

Yahya related to me from Malik from Suhayl ibn Abi Salih from his father from Abu Hurayra that a man of the Aslam tribe said, "I did not sleep last night." The Messenger of Allah, may Allah bless him and grant him peace, said to him, "For what reason?" He said, "A scorpion bit me." The Messenger of Allah, may Allah bless him and grant him peace, said, "Had you said in the evening, 'I seek refuge with the complete words of Allah from the evil of what He has created, 'it would not have happened."

Audhu bi kalimati'llahi't-tammati min sharri ma khalaq .

Book 51, Number 51.4.12:

Yahya related to me from Malik from Summayy, the mawla of Abu Bakr from al-Qa'qa ibn Hakim that Kab al-Ahbar said, "Had it not been for some words which I said, the jews would have made me into a donkey." Someone asked him what they were. He said, "I seek refuge with the immense Face of Allah - there is nothing

greater than it - and with the complete words of Allah which neither the good person nor the corrupt can exceed and with all the most beautiful names of Allah, what I know of them and what I do not know, from the evil of what He has created and originated and multiplied."

Audhu bi wajhi'llahi l-adheem aladhee laysa shay'un adham minh, wa bi kalimati'llahi't-tammati, alatee la yujawizu hunna barra wa la fajir, wa bi asma'illahi'l-husna kulliha ma alamtu minha wa ma lam alam, min sharri ma khalaqa wa bara'a wa dhara'a.

Section: Those who Love Each Other in Allah

Book 51, Number 51.5.13:

Yahya related to me from Malik from Abdullah ibn Abd ar-Rahman ibn Mamar from Abu'l-Hubab Said ibn Yasar that Abu Hurayra said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'Allah, the Blessed, the Exalted, will say on the Day of Rising, "Where are those who loved each other for My majesty? Today I will shade them in My shade on the day when there is no shade except My shade." '"

Book 51, Number 51.5.14:

Yahya related to me from Malik from Khubayb ibn Abd ar-Rahman al-Ansari from Hafs ibn Asim that either Abu Said al-Khudri or Abu Hurayra said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'There are seven whom Allah will shade in His shade on the day on which there is no shade except His shade: a just imam, a youth who grows up worshipping Allah, a man whose heart is attached to the mosque when he leaves it until he returns to it, two men who love each other in Allah and meet for that and part for that, a man who remembers Allah when he is alone and his eyes overflow with tears, a man who refuses the approaches of a noble, beautiful woman, saying "I fear Allah," and a man who gives sadaqa and conceals it so that his left hand does not know what his right hand gives.' "

Book 51, Number 51.5.15:

Yahya related to me from Malik from Suhayl ibn Abi Salih from his father from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "If Allah loves a slave, he says to Jibril, 'I love so-and-so, so love him,' so Jibril loves him and then calls out to the people of heaven, 'Allah loves so-and-so, so love him,' and the people of heaven love him, and then acceptance is placed in the Earth for him." When Allah is angry with a slave, Malik said, "I consider that he says the like of that about His anger."

Yahya related to me from Malik from Abu Hazim ibn Dinar that Abu Idris al-Khawlani said, "I entered the Damascus mosque and there was a young man with a beautiful mouth and white teeth sitting with some people. When they disagreed about something, they referred it to him and proceeded from his statement. I inquired about him, and it was said, 'This is Muadh ibn Jabal.' The next day I went to the

noon-prayer, and I found that he had preceded me to the noon prayer and I found him praying."

Abu Idris continued, "I waited for him until he had finished the prayer. Then I came to him from in front of him and greeted him and said, 'By Allah! I love you for Allah!' He said, 'By Allah?' I said, 'By Allah.' He said, 'By Allah?' I said, 'By Allah.' He said, 'By Allah?' I said, 'By Allah.' "

He continued, "He took me by the upper part of my cloak and pulled me to him and said, 'Rejoice! I heard the Messenger of Allah, may Allah bless him and grant him peace, say, "Allah, the Blessed and Exalted, said, 'My love is obliged for those who love each other in Me, and those who sit with each other in Me, and those who visit each other in Me, and those who give to each other generously in Me.' " ' "

Book 51, Number 51.5.16:

Yahya related to me from Malik that he had heard that Abdullah ibn Abbas said, "Equanimity, gentleness, and good behaviour are one twenty-fifth of prophecy."

Translation of Malik's Muwatta, Book 52:

Visions

Section: Visions

Book 52, Number 52.1.1:

Yahya related to me from Malik from Ishaq ibn Abdullah ibn Abi Talha al-Ansari from Anas ibn Malik that the Messenger of Allah, may Allah bless him and grant him peace, said, "The good dream of a man who is salih is a forty-sixth part of prophecy."

Yahya related the like of that to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra from the Messenger of Allah, may Allah bless him and grant him peace.

Book 52, Number 52.1.2:

Yahya related to me from Malik from Ishaq ibn Abdullah ibn Abi Talha from Zufar ibn Sasaca from his father from Abu Hurayra that when the Messenger of Allah, may Allah bless him and grant him peace, left the morning prayer, he would say, "Has any of you had a dream last night? All that will remain of prophecy after me will be the true dream ."

Book 52, Number 52.1.3:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, said, "All that will be left of prophecy after me are the mubashshirat." They said, "What are the mubashshirat, Messenger of Allah?" He said, "The true dream which a man who is salih sees - or which is shown to him - is a forty-sixth part of prophecy."

Book 52, Number 52.1.4:

Yahya related to me from Malik from Yahya ibn Said that Abu Salama ibn Abd ar-Rahman said, "I heard Abu Qatada ibn Ribiyy say that he heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'The good dream is from Allah, and the bad dream is from shaytan. When you see what you dislike, spit to your left side three times when you wake up, and seek refuge with Allah from its evil. It will not harm you then, Allah willing.' " Abu Salama said, "I would see dreams which weighed on me more heavily than a mountain. When I heard this hadith, I was not concerned about it."

Book 52, Number 52.1.5:

Yahya related to me from Malik from Hisham ibn Urwa that his father said about this ayat, "You have good news in the life of this world and the next world," (Sura 10 ayat 64), that it was the good dream which the man who was salih saw or which was shown to him.

Section: Games of Dice

Book 52, Number 52.2.6:

Yahya related to me from Malik from Musa ibn Maysara from Said ibn Abi Hind from Abu Musa al-Ashari that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever plays games of dice has disobeyed Allah and His Messenger. "

Yahya related to me from Malik from Alqama from his mother that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, heard that the people who lived in a room in her house had some dice. She sent a message to them, "If you do not remove them, I will remove you from my house," and she reproached them for it.

Book 52, Number 52.2.7:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that when he found one of his family playing dice he beat him and destroyed the dice.

Yahya said that he heard Malik say, "There is no good in chess, and he disapproved of it." Yahya said, "I heard him disapprove of playing it and other worthless games. He recited this ayat, 'What is there after the truth except going the wrong way.' " (Sura l0 ayat 32).

Translation of Malik's Muwatta, Book 53:

Greetings

Section: Behaviour in the Greeting

Book 53, Number 53.1.1:

Yahya related to me from Malik from Zayd ibn Aslam that the Messenger of Allah, may Allah bless him and grant him peace, said, "The one riding greets the one walking, and when one of a group of people gives a greeting, it is enough for all of them."

Book 53, Number 53.1.2:

Yahya related to me from Malik from Wahb ibn Kaysan that Muhammad ibn Amr ibn Ata said, "I was sitting with Abdullah ibn Abbas when a Yemeni man came in. He said, 'Peace be upon you, and the mercy of Allah and His blessing' (as-salamu alaykum wa rahmatullahi wa barakatuhu), and then he added something more to that. Ibn Abbas said (and at that time his eyesight had gone), 'Who is this?' People said, 'This is a Yemeni who has come to see you,' and they introduced him. Ibn Abbas said, 'The greeting ends with the word blessing.' "

Yahya said that Malik was asked, "Does one greet a woman?" He said, "As for an old woman, I do not disapprove of it. As for a young woman, I do not like it."

Section: Greeting Jews and Christians

Book 53, Number 53.2.3:

Yahya related to me from Malik from Abdullah ibn Dinar that Abdullah ibn Umar said that the Messenger of Allah, may Allah bless him and grant him peace, said, "When a jew greets you, and says 'Death to you' (as-samu alaykum) say, 'And to you.' "

Yahya said, "Malik was asked whether a person who greeted a jew or christian, should apologise for it. He said, 'No'."

Section: General Section on the Greeting

Book 53, Number 53.3.4:

Yahya related to me from Malik from Ishaq ibn Abdullah ibn Abi Talha from Abu Murra, the mawla of Aqil ibn Abi Talib from Abu Waqid al-Laythi that the Messenger of Allah, may Allah bless him and grant him peace, was sitting in the

mosque with some people when three people came in. Two came toward the Messenger of Allah, may Allah bless him and grant him peace, and one went away. When the two stopped at the assembly of the Messenger of Allah, may Allah bless him and grant him peace, they gave the greeting. One of them saw a gap in the circle and sat in it. The other sat down behind the circle. The third turned away and left. When the Messenger of Allah, may Allah bless him and grant him peace, finished, he said, "Shall I tell you about three people? One of them sought shelter with Allah, so Allah gave him shelter. The other was shy, so Allah was shy to him. The other turned away, so Allah turned away from him."

Book 53, Number 53.3.5:

Yahya related to me from Malik from Ishaq ibn Abdullah ibn Abi Talha that Anas ibn Malik heard Umar ibn al-Khattab return the greeting of a man who greeted him. Then Umar asked the man, "How are you?" He said, "I praise Allah to you." (Ahmadu ilayka Allah) Umar said, "That is what I wanted from you."

Book 53, Number 53.3.6:

Yahya related to me from Malik from Ishaq ibn Abdullah ibn Abi Talha that at-Tufayl ibn Ubayy ibn Kab told him that he visited Abdullah ibn Umar one morning and went out with him to the market, and when they were out, Abdullah ibn Umar did not pass by anyone selling poor merchandise or selling commodities or a needy person or anyone but that he greeted them.

At-Tufayl said, "I came to Abdullah ibn Umar one day and he asked me to follow him to the market. I said to him, 'What will you do in the market if you will not stop to sell nor seek any goods or barter with them or sit in any of the assemblies or market?' Abdullah ibn Umar said that we should sit down and talk, and then he explained, 'Abu Batni, (lit. father of the belly, at-Tufayl had a prominent stomach), we go out in the morning only for the sake of the greeting. We greet whomever we meet.' "

Book 53, Number 53.3.7:

Yahya related to me from Malik from Yahya ibn Said that a man greeted Abdullah ibn Umar. He said, "Peace be upon you and the mercy of Allah and his barakat, on and on." Abdullah ibn Umar said to him, "And on you, a thousand times," as if he disliked that.

Book 53, Number 53.3.8:

Yahya related to me from Malik that he heard that when one entered an unoccupied house, one should say, "Peace be upon us and on the slaves of Allah, who are salih." (As-salamu alayna wa ala ibadillahi's-saliheen).O

Translation of Malik's Muwatta, Book 54:

General Subjects

Section: Asking Permission to Enter

Book 54, Number 54.1.1:

> Malik related to me from Safwan ibn Sulaym from Ata ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, was questioned by a man who said, "Messenger of Allah, shall I ask permission of my mother to enter?" He said, "Yes " The man said, "I live with her in the house". The Messenger of Allah, may Allah bless him and grant him peace, said "Ask her permission." The man said, "I am her servant." The Messenger of Allah. may Allah bless him and grant him peace, said, "Ask her permission. Do you want to see her naked?" He said, "No." He said, "Then ask her permission."

Book 54, Number 54.1.2:

> Malik related to me from a reliable source of his from Bukayr ibn Abdullah ibn al-Ashajj from Basr ibn Said from Abu Said al-Khudri that Abu Musa al-Ashari said, "The Messenger of Allah, may Allah bless him and grant him peace, said, 'One asks permission three times. If you are given permission, then enter. If not, go away.' "

Book 54, Number 54.1.3:

> Malik related to me from Rabia ibn Abi Abd ar-Rahman from another of the ulama of that time that Abu Musa al-Ashari came and asked permission from Umar ibn al-Khattab to enter. He asked permission three times, and then went away Umar ibn al-Khattab sent after him and said, "What's wrong with you? Why didn't you come in?" Abu Musa said, "I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'Ask permission to enter three times. If you are given permission, then enter. If not, go away.' "Umar said, "Who can confirm this? If you do not bring me someone to confirm it, I will do such-and-such to you."
>
> Abu Musa went out until he came to an assembly in the mosque which was called the Majlis-al-Ansar. He said, "I told Umar ibn al-Khattab that I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'Ask permission three times. If you are given permission, then enter. If not, go away.' Umar said, 'If you do not bring me someone who can confirm it, I will do such-and-such to you'. If any of you have heard that, let him come with me.' " They said to Abu Said al-Khudri, "Go with him". Abu Said was the youngest of them. He went with him and told Umar ibn al-Khattab about that."
>
> Umar ibn al-Khattab said to Abu Musa, "I did not suspect you, but I feared lest

people forge sayings of the Messenger of Allah, may Allah bless him and grant him peace."

Section: Blessing the Person who Sneezes

Book 54, Number 54.2.4:

Malik related to me from Abdullah ibn Abi Bakr from his father that the Messenger of Allah, may Allah bless him and grant him peace, said, "If a man sneezes, invoke a blessing on him. Then if he sneezes, invoke a blessing on him. Then if he sneezes, invoke a blessing on him. Then if he sneezes, say, 'You have a cold'." Abdullah ibn Abi Bakr said, "I don't know whether it was after the third or fourth."

Book 54, Number 54.2.5:

Malik related to me from Nafi that when Abdullah ibn Umar sneezed and someone said to him, "May Allah have mercy on you," (Yarhamuka'llah), he said, "May Allah have mercy on us and you, and forgive us and you." (Yarhamuna'llah wa yaghfirlana wa lakum).

Section: Pictures and Images

Book 54, Number 54.3.6:

Malik related to me from Ishaq ibn Abdullah ibn Abi Talha that Rafi ibn Ishaq, the mawla of ash-Shifa informed him that he and Abdullah ibn Abi Talha had gone to visit Abu Said al-Khudri while he was ill. Abu Said said to them, "The Messenger of Allah, may Allah bless him and grant him peace, informed us, 'The angels do not enter a house which contains pictures or images.' " Ishaq was not sure which of them Abu Said said.

Book 54, Number 54.3.7:

Malik related to me from Abu'n-Nasr that Ubaydullah ibn Abdullah ibn Utba ibn Masud went to visit Abu Talha al-Ansari when he was ill. He said, "I found Sahl ibn Hunayf with him. Abu Talha summoned a man and removed a rug which was under him. Sahl ibn Hunayf said to him, 'Why did you remove it?' He said, 'Because there were pictures on it, and the Messenger of Allah, may Allah bless him and grant him peace, said what you know about them.' Sahl replied, 'Didn't the Messenger of Allah, may Allah bless him and grant him peace, say, "except for markings on a garment?"' (A rug was considered a garment). He said, 'Yes, but it is more pleasing to myself.' "

Book 54, Number 54.3.8:

Malik related to me from Nafi from al-Qasim ibn Muhammad from A'isha, the wife of the Prophet, may Allah bless him and grant him peace, that she bought a cushion which had pictures on it. When the Messenger of Allah, may Allah bless him and grant him peace, saw it, he stopped at the door and did not enter. She recognised

disapproval on his face and said, "Messenger of Allah, I turn in repentance to Allah and His Messenger. What have I done wrong?" The Messenger of Allah, may Allah bless him and grant him peace, said, "What is the meaning of this cushion?" She said, "I bought it for you to sit and recline on." The Messenger of Allah, may Allah bless him and grant him peace, said, "Those who make such pictures will be punished on the Day of Rising. It will be said to them, 'Bring to life what you have created'. Then he said, 'The angels do not enter a house in which there are pictures.' "

Section: Eating Lizards

Book 54, Number 54.4.9:

Malik related to me from Abd ar-Rahman ibn Abdullah ibn Abd ar-Rahman ibn Abi Sasaca that Sulayman ibn Yasar said, "The Messenger of Allah, may Allah bless him and grant him peace, entered the house of Maimuna bint al-Harith and there was a lizard in which there were eggs to eat. Abdullah ibn Abbas and Khalid ibn al-Walid were with him. He said, 'From where did you get this?' She replied, 'My sister, Huzayla bint al-Harith, gave it to me.' He then told Abdullah ibn Abbas and Khalid to eat. They said, 'Won't you eat, Messenger of Allah?' He said, 'There are those who visit me from Allah.' Maimuna said, 'Messenger of Allah, shall we give you some milk to drink which we have?' He said, 'Yes.' When he drank, he said, 'From where did you get this?' She said, 'My sister, Huzayla gave it to me.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'Do you see your slave-girl whom you asked me for permission to free? Give her to your sister and bring her to your maternal relatives to take care of her. That is better for you.' "

Book 54, Number 54.4.10:

Malik related to me from Ibn Shihab from Abu Umama ibn Sahl ibn Hunayf from Abdullah ibn Abbas that Khalid ibn al-Walid ibn al-Mughira entered the house of Maimuna, the wife of the Prophet, may Allah bless him and grant him peace, with the Messenger of Allah, may Allah bless him and grant him peace, and he was brought a roasted lizard. The Messenger of Allah, may Allah bless him and grant him peace, stretched his hand toward it. One of the women who was in Maimuna's house said, "Tell the Messenger of Allah, may Allah bless him and grant him peace, what he means to eat." Someone said, "It is a lizard, Messenger of Allah." He withdrew his hand. Khalid said, "Is it haram, Messenger of Allah?" He said, "No, but there were none in my people's land, and I find that I dislike them."

Khalid added, "I chewed and ate it while the Messenger of Allah, may Allah bless him and grant him peace, was looking."

Book 54, Number 54.4.11:

Malik related to me from Abdullah ibn Dinar from Abdullah ibn Umar that a man called the Messenger of Allah and said, "Messenger of Allah, what do you think about lizards?" The Messenger of Allah, may Allah bless him and grant him peace, said, "I do not eat them, and I do not forbid them."

Section: Concerning Dogs

Book 54, Number 54.5.12:

Malik related to me from Yazid ibn Khusayfa that as-Sa'ib ibn Yazid informed him that he heard Sufyan ibn Abi Zuhayr who was from the Azd Shanua tribe and among the companions of the Messenger of Allah, may Allah bless him and grant him peace, speaking with some people who were with him at the door of the mosque. He said, "I heard the Messenger of Allah, may Allah bless him and grant him peace, say, 'If anyone acquires a dog which he does not use as a sheepdog or for hunting, a qirat will be deducted from the reward of his good deeds each day.' " He was asked, "Did you hear this from the Messenger of Allah, may Allah bless him and grant him peace?" He said, "Yes, by the Lord of this mosque."

Book 54, Number 54.5.13:

Malik related to me from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever acquires a dog other than a sheepdog or hunting dog, will have two qirats deducted from the reward of his good actions every day."

Malik related to me from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, ordered dogs to be killed.

Section: Concerning Sheep

Book 54, Number 54.6.15:

Malik related to me from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "The head of kufr is towards the east. Boasting and price is among people who have horses and camels. The loud-voiced people are the people of tents (the Bedouins). Tranquillity is with the people who have sheep."

Book 54, Number 54.6.16:

Malik related to me from Abd ar-Rahman ibn Abd ar-Rahman ibn Sasaca from his father that Abu Said al-Khudri said that the Messenger of Allah, may Allah bless him and grant him peace, said, "It will soon happen that the best property of a muslim will be sheep which he takes to the peaks of the mountains and the valleys, fleeing with his deen from trials."

Book 54, Number 54.6.17:

Malik related to me from Nafi from Ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "No one should milk someone else's cow without his permission. Would any of you like someone to come to his apartment, break into his larder, and take his food? The udders of cows guard their food for their

owners, so no one should milk someone else's cow without his permission."

Book 54, Number 54.6.18:

Malik related to me that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, said, "There is no Prophet who has not herded sheep," and someone asked, "You as well, Messenger of Allah?" He said, "Myself as well."

Section: Mice Falling into Clarified Butter, and giving Precedence to Food over the Prayer

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Book 54, Number 54.7.19:

Malik related to me from Nafi that one time as Ibn Umar was served his evening meal, he heard the recitation of the Imam while he was in his house and he did not hurry from his food until he had finished what he needed.

Book 54, Number 54.7.20:

Malik related to me from Ibn Shihab from Ubaydullah ibn Abdullah ibn Utba ibn Masud from Abdullah ibn Abbas from Maimuna, the wife of the Prophet, may Allah bless him and grant him peace, that the Messenger of Allah, may Allah bless him and grant him peace, was asked about a mouse falling into clarified butter. He said, "Remove it and throw away what is around it "

Section: Guarding against Ill Luck

Book 54, Number 54.8.21:

Malik related to me from Abu Hazim ibn Dinar from Sahl ibn Sad as-Saidi that the Messenger of Allah, may Allah bless him and grant him peace, said, "If it exists, it is in a horse, a woman, and a house," meaning ill luck.

Book 54, Number 54.8.22:

Malik related to me from Malik from Ibn Shihab from Hamza and Salim the sons of Abdullah ibn Umar from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Ill luck is in a house, a woman and a horse."

Book 54, Number 54.8.23:

Malik related to me that Yahya ibn Said said, "A woman came to the Messenger of Allah, may Allah bless him and grant him peace, and said, 'Messenger of Allah, we moved into a house when our number was great and our wealth was abundant. Now our number has dwindled and the wealth has gone.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'Leave it as blameworthy.' "

Section: Names that are Disliked

Book 54, Number 54.9.24:

Malik related to me from Yahya ibn Said that the Messenger of Allah, may Allah bless him and grant him peace, asked about a milk camel about to be milked, "Who milks this camel?" A man stood up. The Messenger of Allah, may Allah bless him and grant him peace, said, "What is your name?" The man said, "Murra (bitterness)." The Messenger of Allah, may Allah bless him and grant him peace, said to him, "Sit down." Then he said, "Who milks this one?" A man stood up and the Messenger of Allah, may Allah bless him and grant him peace, said, "What is your name?" He said, "Harb (war)." The Messenger of Allah, may Allah bless him and grant him peace, said, "Sit down." Then he said, "Who milks this camel?" A man stood up, and the Messenger of Allah, may Allah bless him and grant him peace, said to him, "What is your name?" The man said, "Yaish (he lives)." The Messenger of Allah, may Allah bless him and grant him peace, said to him, "Milk!"

Book 54, Number 54.9.25:

Yahya related to me from Yahya ibn Said that Umar ibn al-Khattab asked a man what his name was. He said, "Jamra (live coal)." "The son of who?" He said, "Ibn Shihab (meteor, flame)." "From whom?" He said, "From al-Huraqa (burning)." "Where do you live?" He said, "At Harrat an-Nar (lava field of the fire). "At which one of them?" He said, "At Dhati Ladha (one with flames)." Umar said, "Go and look at your family - they have been burned."

Yahya added, "It was as Umar ibn al-Khattab, may Allah be pleased with him, said."

Section: Cupping and the Reward of the Cupper

Book 54, Number 54.10.26:

Malik related to me from Humayd at-Tawil that Anas ibn Malik said, "The Messenger of Allah, may Allah bless him and grant him peace, was cupped. Abu Tayba cupped him, and the Messenger of Allah, may Allah bless him and grant him peace, ordered him to be given a sa of dates and ordered his family to lessen what he paid them for his kitaba or kharaj."

Book 54, Number 54.10.27:

Malik related to me that he heard that the Messenger of Allah, may Allah bless him and grant him peace, said, "If there is a remedy that will reach the disease, then cupping will reach it."

Book 54, Number 54.10.28:

Malik related to me from Ibn Shihab from Ibn Muhayyisa al-Ansari, one of the Banu Haritha, that he asked permission from the Messenger of Allah, may Allah bless him and grant him peace, to give payment for cupping, and he forbade him to do it. He continued to ask and seek his permission until he said, "Feed the ones who drive

your water-carrying camels," meaning "your slaves."

Section: Concerning the East

Book 54, Number 54.11.29:

Malik related to me from Abdullah ibn Dinar that Abdullah ibn Umar said, "I saw the Messenger of Allah, may Allah bless him and grant him peace, pointing at the east and saying, 'The cause of dissension is here. The cause of dissension is here, from where the helpers of shaytan arise.' "

Book 54, Number 54.11.30:

Malik related to me that he heard that Umar ibn al-Khattab wanted to go to Iraq, and Kabal-Ahbar said to him, "Do not go there, amir al-muminin. There is nine-tenths of sorcery there and it is the place of the rebellious jinn and the disease which the doctors are unable to cure."

Section: Killing Snakes and what is Said about them

Book 54, Number 54.12.31:

Malik related to me from Nafi from Abu Lubaba that the Messenger of Allah, may Allah bless him and grant him peace, forbade killing snakes which were in the houses.

Book 54, Number 54.12.32:

Malik related to me from Nafi from Sa'iba, the female mawla of A'isha, that the Messenger of Allah, may Allah bless him and grant him peace, forbade killing the snakes which were in the houses except those with two white stripes on their back and the short ones. They made one go blind and caused miscarriages in women.

Book 54, Number 54.12.33:

Malik related to me from Safiyy, the mawla of Ibn Aflah that Abu's-Saib, the mawla of Hisham ibn Zuhra said, "I went to Abu Said al-Khudri and found him praying. I sat to wait for him until he finished the prayer. I heard a movement under a bed in his room, and it was a snake. I stood up to kill it, and Abu Said gestured to me to sit. When he was finished he pointed to a room in the house and said, 'Do you see this room?' I said, 'Yes.' He said, 'There was a young boy in it who had just got married. He went out with the Messenger of Allah, may Allah bless him and grant him peace, to al-Khandaq, (the ditch which the muslims dug in the 5th year of the Hijra to defend Madina against the Quraysh and their allies).

When he was there, the youth came and asked his permission, saying, "Messenger of Allah. Give me permission to return to my family." The Messenger of Allah, may Allah bless him and grant him peace, gave him permission and said, "Take your weapons with you, for I fear the Banu Quraydha tribe. They may harm you." The

youth went to his family and found his wife standing between the two doors. He lifted his spear to stab her as jealousy had been aroused in him. She said, "Don't be hasty until you go in and see what is in your house." He entered and found a snake coiled up on his bed. He transfixed it with his spear and then went out with it and pitched it into the house. The snake stirred on the end of the spear and the youth fell dead. No one knew which of them died first, the snake or the youth. That was mentioned to the Messenger of Allah, may Allah bless him and grant him peace, and he said, "There are jinn in Madina who have become muslim. When you see one of them, call out to it for three days. If it appears after that, then kill it, for it is a shaytan." "'

Section: What to Say on Journeys

Book 54, Number 54.13.34:

Malik related to me that he heard that when the Messenger of Allah, may Allah bless him and grant him peace, set foot in the stirrup intending to travel, he would say, "In the name of Allah. O Allah! You are my companion in the journey and the Khalifa of my family. O Allah! Spread out the earth for us and make the journey easy for us. O Allah! I seek refuge with You from the hardship of the journey and from returning to sorrow and a distressing sight regarding property and family."

Malik related to me from a reliable source of his from Yaqub ibn Abdullah al-Ashajj from Bushr ibn Said from Sad ibn Abi Waqqas from Khawla bint Hakim that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever dismounts to rest in a place should say, 'I seek refuge with the complete words of Allah from the evil of what he created,' (audhu bi kalimati-llahi at-tammati min sharri ma khalaqa), and nothing will harm him until he remounts."

Section: Travelling Alone in the case of Men and Women

Book 54, Number 54.14.35:

Malik related to me from Abd ar-Rahman ibn Harmala from Amr ibn Shuayb from his father from his father that the Messenger of Allah, may Allah bless him and grant him peace, said, "One rider is a shaytan. Two riders are two shaytans, and three are a riding-party."

Book 54, Number 54.14.36:

Malik related to me from Abd ar-Rahman ibn Harmala that Said ibn al-Musayyab heard the Messenger of Allah, may Allah bless him and grant him peace, say, "Shaytan concerns himself with one and two. When there are three, he does not concern himself with them."

Book 54, Number 54.14.37:

Malik related to me from Said ibn Abi Said al-Maqburi from Abu Hurayra that the

Messenger of Allah, may Allah bless him and grant him peace, said, "It is not halal for a woman who believes in Allah and the Last Day to travel the distance of a day and night without a man who is her mahram."

Section: How to Behave on Journeys

Book 54, Number 54.15.38:

Malik related to me from Abu Ubayd, the mawla of Sulayman ibn Abd al-Malik from Khalid ibn Madan who attributed it to the Prophet, may Allah bless him and grant him peace, "Allah, the Blessed and Exalted is kind and loves kindness. He is pleased with it and helps you with it as long as it is not misplaced. When you ride dumb beasts, stop them in their stopping places, and quicken their pace when the land is barren. Travel by night, because the land is travelled faster at night than it is during the day. Beware of pitching tents on the road, for it is the path of animals and the abode of snakes."

Book 54, Number 54.15.39:

Malik related to me from Sumayy, the mawla of Abu Bakr from Abu Salih from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Travelling is a portion of the torment. It denies you your sleep, food, and drink. When you have accomplished your purpose, you should hurry back to your family."

Section: The Command to be Kind to Slaves

Book 54, Number 54.16.40:

Malik related to me that he heard that Abu Hurayra said that the Messenger of Allah, may Allah bless him and grant him peace, said, "A slave has his food and clothing in the normal manner, and he is only obliged to do such work as he is capable of doing."

Book 54, Number 54.16.41:

Malik related to me that he heard that Umar ibn al-Khattab went to the villages every Saturday. If he found a slave doing work which he was not capable of doing, he lightened it for him.

Book 54, Number 54.16.42:

Malik related to me from his paternal uncle, Abu Suhayl ibn Malik, that his father heard Uthman ibn Affan say in a khutba, "Do not oblige the slave-girl to earn money unless she has a skill. When you oblige her to do that, she will earn money by prostitution. Do not oblige the child to earn money. If he does not find it, he will steal. Have integrity since Allah has integrity with you, and you must feed them good food."

Section: The Slave and his Reward

Book 54, Number 54.17.43:

Malik related to me from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "When a slave gives good counsel to his master and worships Allah correctly, he has his reward twice over. "

Book 54, Number 54.17.44:

Malik related to me that he heard that Umar ibn al-Khattab saw a female slave belonging to Abdullah ibn Umar ibn al-Khattab. She was dressed up in silks. He went to his daughter Hafsa and said, "Didn't I see your brother's slave-girl dressed up in silks walking among the people and causing trouble?" Umar disapproved of that.

Translation of Malik's Muwatta, Book 55:

The Oath of Allegiance

Section: About the Oath of Allegiance

Book 55, Number 55.1.1:

Malik related to me from Abdullah ibn Dinar that Abdullah ibn Umar said, "When we took an oath of allegiance with him to hear and obey, the Messenger of Allah, may Allah bless him and grant him peace, said to us, 'In what you are able.' "

Book 55, Number 55.1.2:

Malik related to me from Muhammad ibn al-Munkadir that Umayma bint Ruqayqa said, "I went to the Messenger of Allah, may Allah bless him and grant him peace, with the women who took an oath of allegiance with him in Islam. They said, 'Messenger of Allah! We take a pledge with you not to associate anything with Allah, not to steal, not to commit adultery, not to kill our children, nor to produce any lie that we have devised between our hands and feet, and not to disobey you in what is known.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'In what you can do and are able.' "

Umayma continued, "They said, 'Allah and His Messenger are more merciful to us than ourselves. Come, let us give our hands to you, Messenger of Allah!' The Messenger of Allah, may Allah bless him and grant him peace, said, 'I do not shake hands with women. My word to a hundred women is like my word to one woman.' "

Book 55, Number 55.1.3:

Malik related to me from Abdullah ibn Dinar that Abdullah ibn Umar wrote to Abd al-Malik ibn Marwan, making an oath of allegiance. He wrote, "In the name of Allah, the Merciful, the Compassionate. To the slave of Allah, Abd al-Malik, the amir al-muminin, Peace be upon you. I praise Allah to you. There is no god but Him. I acknowledge your right to my hearing and my obedience according to the sunna of Allah and the sunna of His Prophet, in what I am able."

Translation of Malik's Muwatta, Book 56:

Speech

Section: Disliked Speech

Book 56, Number 56.1.1:

Malik related to me from Abdullah ibn Dinar from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "If a man says to his muslim brother, 'O kafir!' it is true about one of them."

Book 56, Number 56.1.2:

Malik related to me from Suhayl ibn Abu Salih from his father from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "When you hear a man say, 'The people are ruined,' he himself is the most ruined of them all."

Book 56, Number 56.1.3:

Malik related to me from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Let none of you complain about time, for Allah is time.'

Book 56, Number 56.1.4:

Malik related to me from Yahya ibn Said that Isa ibn Maryam encountered a pig on the road. He said to it, "Go in peace." Somebody asked, "Do you say this to a pig?" Isa said, "I fear lest I accustom my tongue to evil speech."

Section: The Order to be Mindful in Speech

Book 56, Number 56.2.5:

Malik related to me from Muhammad ibn Amr ibn Alqama from his father from Bilal ibn al-Harith al-Muzani that the Messenger of Allah, may Allah bless him and grant him peace, said, "A man speaks what is pleasing to Allah and he does not suspect that it will have the result that it does, and Allah will write for him His good pleasure for it until the day when he meets Him. And a man speaks what excites the wrath of Allah and he does not suspect that it will have the result that it does, and Allah will write His wrath for him for it until the day when he meets Him."

Book 56, Number 56.2.6:

Malik related to me from Abdullah ibn Dinar that Abu Salih as-Samman informed him that Abu Hurayra said, "Truly a man utters words to which he attaches no importance, and by them he falls into the fire of Jahannam, and truly a man utters words to which he attaches no importance, and by them Allah raises him into the Garden."

Section: Disliked Speech and Speech Without the Mention of Allah

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Book 56, Number 56.3.7:

Malik related to me from Zayd ibn Aslam that Abdullah ibn Umar said, "Two men from the east stood up and spoke, and people were amazed at their eloquence. The Messenger of Allah, may Allah bless him and grant him peace, said, 'Some eloquence is sorcery,' or he said, 'Part of eloquence is sorcery.' "

Book 56, Number 56.3.8:

Malik related to me that he heard that Isa ibn Maryam used to say, "Do not speak much without the mention of Allah for you will harden your hearts. A hard heart is far from Allah, but you do not know. Do not look at the wrong actions of people as if you were lords. Look at your wrong actions as if you were slaves. Some people are afflicted by wrong action and some people are protected from it. Be merciful to the people of affliction and praise Allah for His protection."

Book 56, Number 56.3.9:

Malik related to me that he heard that A'isha, the wife of the Prophet, may Allah bless him and grant him peace, sent a message to one of her family after the evening prayer, saying, "Will you not allow the recording angel to rest?"

Section: Backbiting

Book 56, Number 56.4.10:

Malik related to me from al-Walid ibn Abdullah ibn Sayyad that al-Muttalib ibn Abdullah ibn Hantab al-Makhzumi informed him that a man asked the Messenger of Allah, may Allah bless him and grant him peace, "What is backbiting?" The Messenger of Allah, may Allah bless him and grant him peace, said, "It is to mention about a man what he does not want to hear." He said, "Messenger of Allah! Even if it is true?" The Messenger of Allah, may Allah bless him and grant him peace, said, "If you utter something false, then it is slander."

Section: What is Feared from the Tongue

Book 56, Number 56.5.11:

Malik related to me from Zayd ibn Aslam from Ata ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whomever Allah protects

from the evil of two things will enter the Garden." A man said, "Messenger of Allah, do not tell us!" The Messenger of Allah, may Allah bless him and grant him peace, was silent. Then the Messenger of Allah, may Allah bless him and grant him peace, repeated what he had said the first time. The man said to him, "Do not tell us, Messenger of Allah!" The Messenger of Allah, may Allah bless him and grant him peace, was silent. Then the Messenger of Allah, may Allah bless him and grant him peace, said the same thing again. The man said, "Do not tell us, Messenger of Allah!" Then the Messenger of Allah, may Allah bless him and grant him peace, said the same thing again. Then the man began to say what he had said previously and a man at his side silenced him. The Messenger of Allah, may Allah bless him and grant him peace, said, "Whomever Allah protects from the evil of two things will enter the Garden. They are what is between his jaws and what is between his legs, what is between his jaws and what is between his legs, what is between his jaws and what is between his legs."

Book 56, Number 56.5.12:

Malik related to me from Zayd ibn Aslam from his father that Umar ibn al-Khattab came upon Abu Bakr as-Siddiq pulling his tongue. Umar said to him, "Stop, may Allah forgive you!" Abu Bakr replied, "This has brought me to dangerous places."

Section: Two People Conversing to the Exclusion of Another

Book 56, Number 56.6.13:

Malik related to me from Abdullah ibn Dinar saying, "Abdullah ibn Umar and I were at the house of Khalid ibn Uqba who was away at the market. A man came who wanted to speak to Abdullah ibn Umar and I was the only other person present Abdullah ibn Umar called another man so that we were four and said to me and the man whom he had called, 'Go a little way off together, because I heard the Messenger of Allah, may Allah bless him and grant him peace, say, "Two do not converse secretly to the exclusion of another.' "'

Book 56, Number 56.6.14:

Malik related to me from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Two must not converse secretly to the exclusion of another person."

Section: Truthfulness and Lying

Book 56, Number 56.7.15:

Malik related to me from Safwan ibn Sulaym that a man asked the Messenger of Allah, may Allah bless him and grant him peace, "Can I lie to my wife, Messenger of Allah?" The Messenger of Allah, may Allah bless him and grant him peace, said, "There is no good in lying." The man said, "Messenger of Allah! Shall I make her a promise and tell her?" The Messenger of Allah, may Allah bless him and grant him

peace, said, "It will not be held against you."

Book 56, Number 56.7.16:

Malik related to me that he heard that Abdullah ibn Masud used to say, "You must tell the truth. Truthfulness leads to right action. Right action leads to the Garden. Beware of lying. Lying leads to corruption, and corruption leads to the Fire. Don't you see that it is said, 'He speaks the truth and acts rightly,' and, 'He lies and is corrupt.' "

Book 56, Number 56.7.17:

Malik related to me that he heard that someone said to Luqman, "What has brought you to what we see?" meaning his high rank. Luqman said, "Truthful speech, fulfilling the trust, and leaving what does not concern me."

Book 56, Number 56.7.18:

Malik related to me that he heard that Abdullah ibn Masud used to say, "The slave continues to lie and a black spot grows in his heart until all his heart becomes black. Then he is written, in Allah's sight, among the liars."

Book 56, Number 56.7.19:

Malik related to me that Safwan ibn Sulaym said, "The Messenger of Allah, may Allah bless him and grant him peace, was asked, 'Can the mumin be a coward?' He said, 'Yes.' He was asked, 'Can the mumin be a miser?' He said, 'Yes.' He was asked, 'Can the mumin be a liar?' He said, 'No.' "

Section: Squandering Property and Being Two-faced

Book 56, Number 56.8.20:

Malik related to me from Suhayl ibn Abi Salih from his father from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "Allah is pleased with three things from you, and He is angry with three things from you. He is pleased that you worship Him and do not associate anything with Him, and that you take hold of the rope of Allah altogether, and that you give good counsel to the one to whom Allah gives command over you. He is angry with you for gossip, squandering property, and asking too many questions."

Book 56, Number 56.8.21:

Malik related to me from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "One of the most evil of people is the two-faced person who shows one face to these people and another face to those people."

Section: Punishing the Many for the Actions of the Few

Book 56, Number 56.9.22:

Malik related to me that he had heard that Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, said, "Messenger of Allah! Shall we be destroyed while there are people who are salih among us?" The Messenger of Allah, may Allah bless him and grant him peace, said, "Yes, if there is much wickedness."

Book 56, Number 56.9.23:

Malik related to me that Ismail ibn Abi Hakim heard Umar ibn Abd al-Aziz say, "Some say that Allah the Blessed, the Exalted, will not punish the many for the wrong action of the few. However, when the objectionable action is committed openly, then they all deserve to be punished."

Section: About People with Taqwa

Book 56, Number 56.10.24:

Malik related to me from Ishaq ibn Abdullah ibn Abi Talha that Anas ibn Malik said, "I heard Umar ibn al-Khattab, when I was going out with him to visit an orchard, say to himself, and there was a wall between him and me and he was inside the garden, 'Umar ibn al-Khattab, amir al-muminin! Well done! Well done! By Allah, fear Allah or he will punish you.' "

Book 56, Number 56.10.25:

Malik said, "I heard that al-Qasim ibn Muhammad used to say, 'I have seen the people, (i.e. the companions), and they were not impressed by speech.' " Malik said, "He meant that only action and deeds would be looked at, not words."

Section: What to Say when it Thunders

Book 56, Number 56.11.26:

Malik related to me that Amir ibn Abdullah ibn az-Zubayr would stop speaking when he heard thunder and say, "Glory be to Allah whom the thunder glorifies with His praise and the angels from the fear of Him." (Subhana-aladhee yusabihu ar-radu bi hamdihi wa mala'ikatu min khiyfatihi.) Then he would say, "This is a severe warning to the people of the earth."

Section: The Legacy of the Prophet, may Allah Bless Him and Grant Him Peace

Book 56, Number 56.12.27:

Malik related to me from Ibn Shihab from Urwa ibn az-Zubayr from A'isha, umm

al-muminin that when the Messenger of Allah, may Allah bless him and grant him peace, died, the wives of the Prophet, may Allah bless him and grant him peace, wanted to send Uthman ibn Affan to Abu Bakr as-Siddiq to ask him about their inheritance from the Messenger of Allah, may Allah bless him and grant him peace A'isha said to them, "Didn't the Messenger of Allah, may Allah bless him and grant him peace, say, 'No one inherits from us. What we leave is sadaqa.' "

Book 56, Number 56.12.28:

Malik related to me from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "My inheritance is not divided up by the dinar. What I leave apart from the maintenance of my wives and provision for my servant is sadaqa."

Translation of Malik's Muwatta, Book 57:

Jahannam

Section: Description of Jahannam

Book 57, Number 57.1.1:

> Malik related to me from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "The fire of the children of Adam which they kindle is a seventieth part of the fire of Jahannam." They said, "Messenger of Allah, this fire is certainly enough." He said, "That fire is sixty-nine times greater."

Book 57, Number 57.1.2:

> Malik related to me from his paternal uncle Abu Suhayl ibn Malik from his father that Abu Hurayra said, "Do you think that it is red like this fire of yours? It is blacker than tar."

Translation of Malik's Muwatta, Book 58:

Sadaqa

Section: Stimulation of Desire for Sadaqa

Book 58, Number 58.1.1:

Malik related to me from Yahya ibn Said from Abu'l-Hubab Said ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever gives sadaqa from good earning - and Allah only accepts the good - it is as if he placed it in the palm of the Merciful to raise it, as one of you raises his foal or young camel until it is like the mountain "

Book 58, Number 58.1.2:

Malik related to me that Ishaq ibn Abdullah ibn Abi Talha heard Anas ibn Malik say, "Abu Talha had the greatest amount of property in palm-trees among the Ansar in Madina. The dearest of his properties to him was Bayruha which was in front of the mosque. The Messenger of Allah, may Allah bless him and grant him peace, used to go into it and drink from the pleasant water which was in it."

Anas continued, "When this ayat was sent down 'You will not obtain rightness of action until you expend of what you love,' (Sura 2 ayat l76), Abu Talha went to the Messenger of Allah, may Allah bless him and grant him peace, and said, 'Messenger of Allah! Allah, the Blessed, the Exalted, has said, "You will not obtain until you expend of what you love." The property which I love the best is Bayruha. It is sadaqa for Allah. I hope for its good and for it to be stored up with Allah. Place it wherever you wish, Messengerof Allah. ' "

"The Messenger of Allah, may Allah bless him and grant him peace, said, 'Well done! That is property which profits! That is property which profits. I have heard what you have said about it and I think that you should give it to your relatives.' Abu Talha said, 'I will do it, Messenger of Allah!' Abu Talha therefore divided it among his relatives and the children of his paternal uncle."

Book 58, Number 58.1.3:

Malik related to me from Zayd ibn Aslam that the Messenger of Allah, may Allah bless him and grant him peace, said, "Give to a beggar even if he comes on a horse."

Book 58, Number 58.1.4:

Malik related to me from Zayd ibn Aslam from Amr ibn Muadh al-Ashali al-Ansari that his grandmother said, "The Messenger of Allah, may Allah bless him and grant

him peace, said, 'O trusting women! Let none of you despise giving to her neighbour even if it is only a roasted sheep's trotter.'

Book 58, Number 58.1.5:

Yahya related to me from Malik that he heard that a beggar asked A'isha, the wife of the Prophet, may Allah bless him and grant him peace, for something while she was fasting and there was only a loaf of bread in her house. She said to her female mawla, "Give it to him." The mawla protested, "You will not have anything to break your fast with." A'isha repeated, "Give it to him," so she did so. When evening came, the people of a house or a man who did not usually give to them, gave them a sheep and some food to go with it. A'isha, umm al-muminin, called her mawla and said, "Eat from this. This is better than your loaf of bread."

Book 58, Number 58.1.6:

Yahya related to me that Malik said, "I heard that a beggar asked for food from A'isha, umm al-muminin, while she had some grapes. She told some one to take him one grape. He began to look in amazement. A'isha said, 'Are you amazed? How many atoms' weights do you see in this grape?' " (referring to Sura 99 ayat 7).

Section: Refraining from Asking

Book 58, Number 58.2.7:

Malik related to me from Malik from Ibn Shihab from Ata ibn Yazid al-Laythi from Abu Said al-Khudri that some people of the Ansar asked the Messenger of Allah, may Allah bless him and grant him peace, and he gave to them. Then they asked him again, and he gave to them until he used up what he had. Then he said, "What wealth I have, I will not hoard from you. Whoever has forbearance, Allah will help him. Whoever tries to be independent, Allah will enrich him. Whoever tries to be patient, Allah will give him patience, and no one is given a better or vaster gift than patience."

Book 58, Number 58.2.8:

Yahya related to me from Malik from Nafi from Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, said from the mimbar when mentioning sadaqa and refraining from asking, "The upper hand is better than the lower hand. The upper hand is the one which expends, and the lower one is the one which asks."

Book 58, Number 58.2.9:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that the Messenger of Allah, may Allah bless him and grant him peace, sent a gift to Umar ibn al-Khattab, and Umar returned it. The Messenger of Allah, may Allah bless him and grant him peace, said, "Why did you return it?" He said, "Messenger of Allah,

didn't you tell us that it is better for us not to take anything from anyone?" The Messenger of Allah, may Allah bless him and grant him peace, said, "That is by asking. Provision which Allah gives you is different from asking." Umar ibn al-Khattab said, "By the One in whose hand my self is, I will not ask anything from anyone, and anything that comes to me without my asking for it, I will accept."

Book 58, Number 58.2.10:

Yahya related to me from Malik from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah bless him and grant him peace, said, "By Him in whose hand myself is! To take your rope and gather firewood on your back is better for you than that you come to a man to whom Allah has given some of His favour and ask him, so he gives to you or refuses."

Book 58, Number 58.2.11:

Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn Yasar that a man of the Banu Asad said, "My family and I dismounted to rest at Baqi. My family said to me, 'Go to the Messenger of Allah, may Allah bless him and grant him peace, and ask him for something that we can eat,' and they began to mention their need. I went to the Messenger of Allah, may Allah bless him and grant him peace, and found that a man was asking for something, and the Messenger of Allah, may Allah bless him and grant him peace, was saying, 'I do not have anything to give you.' The man turned away from him in anger, saying, 'By my life! You give to whomever you wish.' The Messenger of Allah, may Allah bless him and grant him peace, said, 'He is angry with me because I do not have anything to give him. Whoever asks of you while he has an uqiya or its like, has asked with importunity.' "

The man continued, "I said to myself about a camel that we had, 'It is better than an uqiya.' (Malik explained that an uqiya was forty dirhams.) So I returned and did not ask him for anything, and the Messenger of Allah, may Allah bless him and grant him peace, sent me barley and raisins after that. He gave us from his share until Allah, the Mighty, the Majestic gave us relief."

Book 58, Number 58.2.12:

Yahya related that Malik heard al-Ala ibn Abd ar-Rahman say, "Sadaqa does not decrease property, and Allah only increases a slave in worth for his restraint, and no slave is humble but that Allah raises him."

Malik said, "I do not know whether this hadith goes back to the Prophet, may Allah bless him and grant him peace, or not."

Section: What Is Disliked in Sadaqa

Book 58, Number 58.3.13:

Yahya related to me from Malik that he heard that the Messenger of Allah, may Allah bless him and grant him peace, said, "Sadaqa to the family of Muhammad is

not halal. It is only people's impurities."

Book 58, Number 58.3.14:

Yahya related to me from Malik from Abdullah ibn Abi Bakr from his father that the Messenger of Allah, may Allah bless him and grant him peace, gave a man from the Banu Abd al-Ashal charge over some sadaqa. When he came to ask him for some camels from the sadaqa, the Messenger of Allah, may Allah bless him and grant him peace, was so angry that the anger showed in his face. One way in which anger could be recognised in his face was that his eyes became red. Then he said, "This man has asked me for what is not good for me or him. If I refuse it, I hate to refuse. If I give it to him, I will give him what is not good for me or him." The man said, "Messenger of Allah! I will never ask you for any of it!"

Book 58, Number 58.3.15:

Yahya related to me from Malik from Zayd ibn Aslam that his father said, "Abdullah ibn al-Arqam said, 'Show me a riding-camel which the amir al-muminim can give me to use.' I said, 'Yes. One of the sadaqa camels.' Abdullah ibn al-Arqam said, 'Would you want a stout man on a hot day to wash for you what is under his lower garment and its folds, and then give it to you to drink?' I was angry and said, 'May Allah forgive you! Why do you say such things to me?' Abdullah ibn al-Arqam said, 'Sadaqa is the impurities of people which they wash off themselves.' "

Translation of Malik's Muwatta, Book 59:

Knowledge

Section: Seeking Knowledge

Book 59, Number 59.1.1:

Yahya related to me from Malik that he heard that Luqman al-Hakim made his will and counselled his son, saying, "My son! Sit with the learned men and keep close to them. Allah gives life to the hearts with the light of wisdom as Allah gives life to the dead earth with the abundant rain of the sky."

Translation of Malik's Muwatta, Book 60:

The Supplication of the Unjustly Wronged

Section: Supplication of the Unjustly Wronged

Book 60, Number 60.1.1:

Yahya related to me from Malik from Zayd ibn Aslam from his father that Umar ibn al-Khattab gave a mawla of his called Hunayy charge over the hima. He said, "Hunayy! Do not harm the people. Fear the supplication of the wronged, for the supplication of the wronged is answered. Let the one with a small herd of camels and the one with a small herd of sheep enter, but be wary of the livestock of Ibn Awf and the livestock of Ibn Affan. If their livestock are destroyed, they will return to palm-trees and agriculture. If the livestock of the one with a small herd of camels and the one with a small herd of sheep are destroyed, he will bring his children to me crying, 'Amir al-muminin! Amir al-Muminin!' Shall I neglect them? Water and pasturage are of less value to me than gold and silver. By Allah, they think that I have wronged them. This is their land and their water. They fought for it in the jahiliyya and became muslims on it in Islam. By He in whose hand my self is! Were it not for the mounts which I give to be ridden in the way of Allah, I would not have turned a span of their land into hima."

Translation of Malik's Muwatta, Book 61:

The Names of the Prophet, may Allah Bless Him and Grant Him Peace

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Section: The Names of the Prophet, may Allah Bless Him and Grant Him Peace

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Book 61, Number 61.1.1:

> Malik related to me from Ibn Shihab from Muhammad ibn Jubayr ibn Mutim that the Prophet, may Allah bless him and grant him peace, said, "I have five names. I am Muhammad. I am Ahmad. I am al-Mahi (the effacer), by whom Allah effaces kufr. I am al-Hashir (the gatherer), before whom people are gathered. I am al-Aqib (the last)."
